

**Title 34-A: CORRECTIONS**  
**Chapter 1: GENERAL PROVISIONS**

**Table of Contents**

<b>Subchapter 1. DEFINITIONS.....</b>	<b>3</b>
Section 1001. DEFINITIONS.....	3
<b>Subchapter 2. DEPARTMENT.....</b>	<b>6</b>
Section 1201. LEGISLATIVE INTENT.....	6
Section 1202. ESTABLISHMENT.....	7
Section 1203. OFFICE OF ADVOCACY (REPEALED).....	7
Section 1204. MAINE CORRECTIONAL ADVISORY COMMISSION (REPEALED).....	7
Section 1204-A. MAINE CORRECTIONAL ADVISORY COMMISSION (REPEALED).....	7
Section 1205. STATEWIDE CORRECTIONAL PROGRAM IMPROVEMENT (REPEALED).....	7
Section 1205-A. CORRECTIONAL MEDICAL SERVICES FUND.....	8
Section 1206. AGREEMENTS WITH COMMUNITY AGENCIES.....	8
Section 1206-A. CERTIFICATION OF COMMUNITY INTERVENTION PROGRAMS.....	9
Section 1207. OUT-OF-STATE PRISON-MADE GOODS.....	10
Section 1208. STANDARDS FOR COUNTY AND MUNICIPAL DETENTION FACILITIES.....	10
Section 1208-A. STANDARDS FOR ADDITIONAL ACCOMMODATIONS.....	13
Section 1209. JUVENILE JUSTICE ADVISORY GROUP.....	13
Section 1209-A. STATE SENTENCING AND CORRECTIONS PRACTICES COORDINATING COUNCIL (REPEALED).....	15
Section 1210. COMMUNITY CORRECTIONS (REPEALED).....	15
Section 1210-A. COMMUNITY CORRECTIONS (REPEALED).....	15
Section 1210-B. COMMUNITY CORRECTIONS FUND AND COUNTY JAIL PRISONER SUPPORT FUND (REPEALED).....	16
Section 1210-C. COMMUNITY CORRECTIONS INCENTIVE FUND (REPEALED).....	16
Section 1211. JAIL INDUSTRIES AUTHORITY (REPEALED).....	16
Section 1212. CONFIDENTIAL INFORMATION.....	16
Section 1213. CONTRACT TO PROVIDE MEDICAL CARE.....	16
Section 1214. OFFICE OF VICTIM SERVICES.....	17
Section 1214-A. ELDER VICTIMS RESTITUTION FUND.....	18
Section 1215. ACCREDITATION (REALLOCATED FROM TITLE 34-A, SECTION 1214).....	19
Section 1216. CONFIDENTIALITY OF INFORMATION.....	19
Section 1217. PRISONER BOARDING FUND.....	21
Section 1218. ELECTRONIC MONITORING FUND (REPEALED).....	21
<b>Subchapter 3. COMMISSIONER.....</b>	<b>21</b>

Section 1401. OFFICE.....	21
Section 1402. DUTIES.....	22
Section 1403. POWERS.....	24
Section 1404. DUTIES AND POWERS OF THE COMMISSIONER IN SUPPORT OF STATE BOARD OF CORRECTIONS .....	29
Section 1405. TRANSFER FROM COUNTY JAILS OR CORRECTIONAL FACILITIES.....	30
<b>Subchapter 4. NEGOTIATIONS WITH MUNICIPALITIES IN WHICH CORRECTIONAL FACILITIES ARE LOCATED ENACTED BY PL 1989, C. 591, §1.....</b>	<b>30</b>
Section 1601. NEGOTIATIONS WITH MUNICIPALITIES.....	31
<b>Subchapter 5. STATE BOARD OF CORRECTIONS.....</b>	<b>31</b>
Section 1801. STATE BOARD OF CORRECTIONS.....	31
Section 1802. BOARD MEMBERSHIP.....	32
Section 1803. BOARD RESPONSIBILITIES AND DUTIES.....	33
Section 1803-A. OFFICE OF EXECUTIVE DIRECTOR.....	37
Section 1804. CORRECTIONS WORKING GROUP.....	38
Section 1805. STATE BOARD OF CORRECTIONS OPERATIONAL SUPPORT FUND PROGRAM.....	38
Section 1806. COMMUNITY CORRECTIONS FUNDS DISTRIBUTED BY BOARD.....	39
Section 1807. ELECTRONIC MONITORING FUND.....	41
Section 1808. FINANCIAL DATA.....	42
Section 1809. APPLICATION FOR OTHER FUNDS.....	42
Section 1810. BUDGET FORMAT.....	43
Section 1811. COUNTY CORRECTIONS CAPITAL IMPROVEMENT FUND.....	43
Section 1812. USE OF FUNDS.....	45
Section 1813. MONITORING PERFORMANCE.....	46
Section 1814. ENFORCEMENT AUTHORITY.....	46
Section 1815. PROGRAM INCENTIVES.....	47

**Maine Revised Statutes**  
**Title 34-A: CORRECTIONS**  
**Chapter 1: GENERAL PROVISIONS**

Subchapter 1: DEFINITIONS

**§1001. DEFINITIONS**

*(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)*

As used in this Title, unless the context otherwise indicates, the following terms have the following meanings. [1983, c. 459, §6 (NEW).]

**1. Chief administrative officer.** "Chief administrative officer" means the head of a correctional facility or a detention facility.

A. [1991, c. 314, §1 (RP).]

B. [1991, c. 314, §1 (RP).]

C. [1991, c. 314, §1 (RP).]

D. [1991, c. 314, §1 (RP).]

[ 1991, c. 314, §1 (AMD) .]

**1-A. Client.** "Client" means any person in the custody or under the supervision of the department, including, but not limited to, a prisoner, juvenile client, contract client, probationer, parolee, juvenile detainee and an informally adjusted juvenile.

[ 1991, c. 314, §2 (NEW) .]

**1-B. Adult developmental services.** "Adult developmental services" has the same meaning as in Title 34-B, section 1001, subsection 1-A.

[ 2011, c. 542, Pt. A, §57 (NEW) .]

**2. Commissioner.** "Commissioner" means the Commissioner of Corrections or his designee, except that, when the term "commissioner and only the commissioner" is used, the term applies only to the person appointed Commissioner of Corrections and not to any designee.

[ 1983, c. 459, §6 (NEW) .]

**3. Committed offender.**

[ 1991, c. 314, §3 (RP) .]

**4. Contract agency.** "Contract agency" means a facility or program outside the jurisdiction of the department, providing services under contract to the department.

[ 1983, c. 459, §6 (NEW) .]

**5. Contract client.** "Contract client" means a client residing in a facility or participating in a program outside the jurisdiction of the department under an agreement between the department and the contract agency.

[ 1991, c. 314, §4 (AMD) .]

**6. Correctional facility.** "Correctional facility" means any facility that falls under the jurisdiction of the department, but does not include any facility for which the department is required to establish standards pursuant to section 1208 or 1208-A.

[ 2003, c. 410, §9 (AMD) .]

**7. Correctional program.** "Correctional program" includes, but is not limited to, probation and parole, court intake and jail inspection.

[ 1983, c. 459, §6 (NEW) .]

**8. Department.** "Department" means the Department of Corrections.

[ 1983, c. 459, §6 (NEW) .]

**8-A. Detention facility.** "Detention facility" means the Long Creek Youth Development Center and the Mountain View Youth Development Center.

[ 2003, c. 410, §10 (AMD) .]

**9. Holding facility.** "Holding facility" means a facility or part of a building used for the detention of adult pretrial detainees prior to arraignment, release or transfer to another facility or authority for periods of up to 48 hours. "Holding facility" also means a county jail or part of a jail used for the detention of adult inmates, whether detained pending a trial or other court proceeding or sentenced for periods of up to 72 hours excluding Saturday, Sunday and legal holidays and excluding days during which the inmate is at court.

A. [ 2009, c. 391, §8 (RP) .]

B. [ 2009, c. 391, §8 (RP) .]

[ 2009, c. 391, §8 (RPR) .]

**10. Informally adjusted juvenile.** "Informally adjusted juvenile" means a juvenile participating in a program of informal adjustment, as defined in Title 15, section 3003, subsection 10.

[ 1983, c. 459, §6 (NEW) .]

**10-A. Investigative officer.** "Investigative officer" means an employee of the department designated by the commissioner as having the authority to conduct investigations of crimes or juvenile crimes relating to the security or orderly management of a facility administered by the department and engage in any other activity that is related to the administration of criminal justice or the administration of juvenile criminal justice as defined in Title 15, section 3308, subsection 7, paragraph A, subparagraph (2) and who is certified by the Board of Trustees of the Maine Criminal Justice Academy as a full-time law enforcement officer.

[ 2013, c. 80, §5 (AMD) .]

**11. Juvenile client.** "Juvenile client" means a juvenile committed to a juvenile correctional facility who is either residing at the facility or is on community reintegration status, or ordered confined in a juvenile correctional facility pursuant to Title 12, section 6004, 8004 or 10608; Title 15, section 3314, subsection 1, paragraph H; or Title 29-A, section 115.

[ 2005, c. 507, §18 (AMD) . ]

**11-A. Juvenile detainee.** "Juvenile detainee" means a juvenile detained at a departmental juvenile facility pending a court proceeding or pursuant to Title 15, section 3312, subsection 3, paragraph D.

[ 2005, c. 507, §19 (AMD) . ]

**11-B. (TEXT REPEALED 8/1/17) (TEXT EFFECTIVE UNTIL 8/1/17) Likelihood of serious harm.** "Likelihood of serious harm" means a:

A. Substantial risk of physical harm to a person, as manifested by that person's recent threats of, or attempts at, suicide or serious self-inflicted harm; [ 2013, c. 434, §2 (NEW) . ]

B. Substantial risk of physical harm to other persons, as manifested by a person's recent homicidal or other violent behavior or recent conduct placing others in reasonable fear of serious physical harm; or [ 2013, c. 434, §2 (NEW) . ]

C. Reasonable certainty that a person will suffer severe physical or mental harm as manifested by that person's recent behavior demonstrating an inability to avoid risk or to protect the person's self adequately from impairment or injury. [ 2013, c. 434, §2 (NEW) . ]

This subsection is repealed August 1, 2017.

[ 2013, c. 434, §2 (NEW) . ]

**12. Parking area.** "Parking area" means land maintained by the State at the correctional facilities which may be designated as parking areas by the chief administrative officers of the correctional facilities.

[ 1983, c. 459, §6 (NEW) . ]

**12-A. (TEXT EFFECTIVE UNTIL 8/1/17) (TEXT REPEALED 8/1/17) Person with mental illness.** "Person with mental illness" means a person who has attained 18 years of age and has been diagnosed as having a psychiatric or other illness that substantially impairs that person's mental health. An intellectual disability as defined in Title 34-B, section 5001, subsection 3 or a personality disorder is not a psychiatric or other illness for purposes of this subsection. This subsection is repealed August 1, 2017.

[ 2013, c. 434, §3 (NEW) . ]

**13. Prison.** "Prison" means the Maine State Prison.

[ 1983, c. 459, §6 (NEW) . ]

**14. Prisoner.** "Prisoner" means an adult person sentenced and committed to, transferred to or detained in the custody of the department, including a person on supervised community confinement.

[ 2013, c. 133, §24 (AMD) . ]

**15. Public way.** "Public way" means a road or driveway on land maintained by the State at the correctional facilities.

[ 1983, c. 459, §6 (NEW) . ]

**15-A. Regional correctional administrator.** "Regional correctional administrator" means the supervisor of adult probation and parole services or the supervisor of juvenile community corrections officer services for a region.

[ 2013, c. 133, §25 (AMD) .]

**16. Segregation.** "Segregation" means the separation of a prisoner from the general population of a correctional facility for administrative or punitive reasons.

[ 1991, c. 314, §8 (AMD) .]

**17. Short-term detention area.** "Short-term detention area" means a section of a building used for the detention of pretrial detainees for periods of up to 4 hours.

[ 1983, c. 459, §6 (NEW) .]

**18. Written political material.** "Written political material" means flyers, handbills or other nonperiodical publications, which are subject to the restrictions of Title 21-A, chapter 13.

[ 1985, c. 161, §14 (AMD) .]

**19. Administration of criminal justice.** "Administration of criminal justice" has the same meaning as in Title 16, section 703, subsection 1.

[ 2013, c. 267, Pt. B, §26 (AMD) .]

**20. Criminal justice agency.** "Criminal justice agency" has the same meaning as in Title 16, section 703, subsection 4.

[ 2013, c. 267, Pt. B, §26 (AMD) .]

**21. Administration of juvenile criminal justice.** "Administration of juvenile criminal justice" has the same meaning as in Title 15, section 3308, subsection 7, paragraph A, subparagraph (2).

[ 1987, c. 633, §1 (NEW) .]

#### SECTION HISTORY

1983, c. 459, §6 (NEW). 1985, c. 161, §14 (AMD). 1987, c. 633, §1 (AMD). 1991, c. 314, §§1-8 (AMD). 1995, c. 462, §A63 (AMD). 1995, c. 462, §§A64,82,83 (AFF). 1997, c. 102, §1 (AMD). 1997, c. 464, §§7,8 (AMD). 1997, c. 752, §§31-33 (AMD). 1999, c. 401, §J6 (AMD). 2001, c. 439, §G8 (AMD). 2001, c. 667, §A50 (AMD). 2003, c. 410, §§9-12 (AMD). 2005, c. 507, §§18,19 (AMD). 2009, c. 142, §14 (AMD). 2009, c. 391, §8 (AMD). 2011, c. 542, Pt. A, §57 (AMD). 2013, c. 80, §5 (AMD). 2013, c. 133, §§24, 25 (AMD). 2013, c. 267, Pt. B, §26 (AMD). 2013, c. 434, §§2, 3 (AMD).

## Subchapter 2: DEPARTMENT

### §1201. LEGISLATIVE INTENT

Recognizing the need to firmly control all of the State's correctional and detention facilities, provide for the safety of staff and clients, undertake appropriate programming for the classification, education, rehabilitation and maintenance of clients and assure an effective system for the supervision of parolees

and probationers, it is the intent of the Legislature to create a Department of Corrections to improve the administration of correctional facilities, programs and services for clients. [1991, c. 314, §9 (AMD).]

#### SECTION HISTORY

1983, c. 459, §6 (NEW). 1991, c. 314, §9 (AMD).

### **§1202. ESTABLISHMENT**

There is established a Department of Corrections to be responsible for the direction and general administrative supervision, guidance and planning of adult and juvenile correctional facilities and programs within the State. [1983, c. 459, §6 (NEW).]

**1. Cabinet level.** The department is a cabinet-level department.

[ 1983, c. 459, §6 (NEW) .]

**2. Commissioner.** The department is under the control and supervision of the Commissioner of Corrections.

[ 1983, c. 459, §6 (NEW) .]

#### SECTION HISTORY

1983, c. 459, §6 (NEW).

### **§1203. OFFICE OF ADVOCACY**

*(REPEALED)*

#### SECTION HISTORY

1983, c. 459, §6 (NEW). 1987, c. 744, §10 (AMD). 1989, c. 925, §§14-16 (AMD). 1991, c. 314, §§10-13 (AMD). 2003, c. 205, §9 (AMD). 2003, c. 689, §B6 (REV). 2009, c. 1, Pt. S, §2 (RP).

### **§1204. MAINE CORRECTIONAL ADVISORY COMMISSION**

*(REPEALED)*

#### SECTION HISTORY

1983, c. 459, §6 (NEW). 1983, c. 581, §§8,59 (AMD). 1983, c. 812, §§256,257 (AMD). 1985, c. 666, §§1,2 (AMD). 1989, c. 503, §B158 (AMD). 1989, c. 808, §2 (RP).

### **§1204-A. MAINE CORRECTIONAL ADVISORY COMMISSION**

*(REPEALED)*

#### SECTION HISTORY

1989, c. 808, §3 (NEW). 1991, c. 314, §14 (AMD). 1993, c. 225, §2 (RP).

### **§1205. STATEWIDE CORRECTIONAL PROGRAM IMPROVEMENT**

*(REPEALED)*

#### SECTION HISTORY

1983, c. 459, §6 (NEW). 1987, c. 445, §1 (AMD). 1991, c. 314, §15 (AMD). 2001, c. 228, §1 (AMD). 2001, c. 386, §§8,9 (AMD). 2001, c. 667, §C19 (AMD). 2003, c. 510, §A31 (RP).

## §1205-A. CORRECTIONAL MEDICAL SERVICES FUND

This section establishes the Correctional Medical Services Fund to provide the means for the development, expansion, improvement and support of correctional medical services. [2001, c. 386, §10 (NEW).]

**1. Commissioner's powers.** The commissioner may receive and use, for the purpose of this section, money appropriated by the State, grants from the United States and funds from other sources.

[ 2001, c. 386, §10 (NEW) .]

**2. Correctional Medical Services Fund.** All funds appropriated for the purpose of this section and all grants and other funds received by the department for the purpose of this section must be credited to a special account in the department to be known as the Correctional Medical Services Fund. State funds appropriated to this special account that are unexpended at the end of the fiscal year for which the funds are appropriated do not lapse, but must carry forward into subsequent fiscal years to be expended for the purpose of this section.

[ 2001, c. 386, §10 (NEW) .]

### SECTION HISTORY

2001, c. 386, §10 (NEW).

## §1206. AGREEMENTS WITH COMMUNITY AGENCIES

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Agreement" means a legally binding document between 2 parties, including documents commonly referred to as accepted application, proposal, prospectus, contract, grant, joint or cooperative agreement or purchase of service. [1983, c. 459, §6 (NEW).]

B. "Community agency" means a person, a public or private nonprofit organization or a firm, partnership or business corporation operated for profit, which:

(1) Operates a human service program at the community level; and

(2) Is not an administrative unit of the Federal Government or State Government. [1983, c. 459, §6 (NEW).]

C. "Funds" means any and all general funds, dedicated funds, fees, special revenue funds, 3rd party reimbursements, vendor payments or other funds available for expenditure by the department in support of the provision of a human service. [1983, c. 459, §6 (NEW).]

D. "Human service" means any alcoholism, children's community action, corrections, criminal justice, developmental disability, donated food, education, elderly, food stamp, income maintenance, health, juvenile, law enforcement, legal, medical care, mental health, adult developmental, poverty, public assistance, rehabilitation, social, substance abuse, transportation, welfare or youth service operated by a community agency under an agreement financially supporting the service, wholly or in part, by funds authorized for expenditure for the department. [2011, c. 542, Pt. A, §58 (AMD).]



E. "Nonprofit organization" means any agency, institution or organization which is, or is owned and operated by, one or more corporations or associations, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual and which has a territory of operations that may extend to a neighborhood, community, region or the State. [1983, c. 459, §6 (NEW).]

F. "State agency client" means the same as set out in Title 20-A, section 1, subsection 34-A. [1985, c. 789, §§5, 9 (NEW).]

[ 2011, c. 542, Pt. A, §58 (AMD) .]

**2. Commissioner's powers.** The commissioner may disburse funds to a community agency for the purpose of financially supporting a human service, only if the disbursement is covered by a written agreement between the department and the agency, specifying at least the following:

A. The human service to be provided by the community agency; [1983, c. 459, §6 (NEW).]

B. The method of payment by the department to the community agency; and [1983, c. 459, §6 (NEW).]

C. The criteria for monitoring and evaluating the performance of the community agency in the provision of the human service. [1983, c. 459, §6 (NEW).]

[ 1983, c. 459, §6 (NEW) .]

### **3. Commissioner's duties.**

[ 2005, c. 488, §9 (RP) .]

**4. Payment for state agency clients.** The commissioner shall authorize payment of approved board, care and mental health treatment costs for all state agency clients in the care or custody of the department who are placed for other than educational purposes in residential placements, as defined in Title 20-A, section 1, subsection 24-A, to the extent of funds appropriated by the Legislature for this purpose. In no event may those payments be authorized in excess of funds appropriated for those costs.

[ 1987, c. 376, (AMD) .]

#### **SECTION HISTORY**

1983, c. 459, §6 (NEW). 1985, c. 789, §§5,6,9 (AMD). 1987, c. 376, (AMD). 2005, c. 488, §9 (AMD). 2011, c. 542, Pt. A, §58 (AMD).

## **§1206-A. CERTIFICATION OF COMMUNITY INTERVENTION PROGRAMS**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Community agency" means a person, a public or private nonprofit organization or a firm, partnership or business corporation operated for profit that:

(1) Operates a community intervention program; and

(2) Is not an administrative unit of the Federal Government or State Government. [2009, c. 92, §1 (NEW).]

B. "Community intervention program" means a program operated at the community level providing services designed to intervene in the risk factors for reoffending, including, but not limited to, mental health, sex offender treatment, social service and substance abuse treatment programs, but not including a batterers' intervention program under Title 19-A, section 4014. [2009, c. 92, §1 (NEW).]

C. "Nonprofit organization" means any agency, institution or organization that is, or is owned and operated by, one or more corporations or associations, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual, and that has a territory of operations that extends to a neighborhood, community or region or the State. [ 2009, c. 92, §1 (NEW) . ]

[ 2009, c. 92, §1 (NEW) . ]

**2. Rules establishing standards and procedures for certification.** The department may adopt rules in consultation with other appropriate state agencies that establish standards and procedures for certification of community intervention programs. The department may review and certify programs that meet the standards and may require certification of programs providing services to clients of the department, regardless of whether the department disburses funds to the community agency. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[ 2009, c. 92, §1 (NEW) . ]

#### SECTION HISTORY

2009, c. 92, §1 (NEW) .

## §1207. OUT-OF-STATE PRISON-MADE GOODS

**1. Purpose.** The purpose of this section is to prohibit the sale within the State of any goods, wares or merchandise produced in penal institutions outside of the State and transported into the State.

[ 1983, c. 581, §§ 9 and 59 (RPR) . ]

**2. Prohibited acts; fines.** Prohibited acts and fines under this section are governed as follows.

A. A person is guilty of a civil violation of sale of out-of-state prison-made goods if that person sells within this State any goods, wares or merchandise manufactured, produced or mined, wholly or in part, by nonparoled convicts or prisoners, or in any penal or reformatory institution, in another state and transported into this State. [1983, c. 581, §§ 9 and 59 (RPR) . ]

B. Upon conviction of a civil violation of sale of out-of-state prison-made goods, a person shall pay a fine. The fine may be any amount which does not exceed twice the monetary value of the transaction. [1983, c. 581, §§ 9 and 59 (RPR) . ]

[ 1983, c. 581, §§ 9 and 59 (RPR) . ]

#### SECTION HISTORY

1983, c. 459, §6 (NEW). 1983, c. 581, §§9,59 (RPR) .

## §1208. STANDARDS FOR COUNTY AND MUNICIPAL DETENTION FACILITIES

The commissioner shall establish standards, pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375, for county and municipal jails, holding facilities and short-term detention areas, referred to in this section as county and municipal detention facilities, as follows and shall enforce them. [1983, c. 581, §§10, 59 (NEW) . ]

**1. Establishment.** The commissioner shall establish both mandatory and desirable standards for all county and municipal detention facilities, setting forth requirements for maintaining safe, healthful and secure facilities.

[ 1983, c. 581, §§10, 59 (NEW) . ]

**2. Inspections.** Inspections of county and municipal detention facilities are governed as follows.

A. The commissioner shall conduct a comprehensive inspection of each county and municipal detention facility every 2 years, in order to provide the department with information, verified by on-site inspection, regarding compliance with all department standards. The commissioner may dispense with this inspection if, when it is due, the facility is accredited by a nationally recognized correctional accrediting body. [2013, c. 27, §1 (AMD).]

B. The commissioner shall conduct every 2 years no fewer than 3 inspections of each county and municipal detention facility that are in addition to any comprehensive inspections conducted pursuant to paragraph A in order to determine continued compliance with standards. [2013, c. 27, §2 (AMD).]

C. The commissioner may inspect a county or municipal detention facility at any time, without prior notice, to determine compliance with standards. [1983, c. 581, §§10, 59 (NEW).]

C-1. As part of any inspection, the commissioner may access any records, including, but not limited to, the records of persons detained or committed in the facility, as considered necessary by the commissioner in order to determine compliance with standards. [2007, c. 102, §6 (NEW).]

D. The commissioner shall prepare a written report of each inspection and shall send a copy of the report to appropriate county or municipal officials within 15 days after the inspection.

(1) The report shall summarize inspection findings.

(2) The report shall list the standards with which the facility does not comply and set forth the reasons for noncompliance. [1983, c. 581, §§10, 59 (NEW).]

E. The commissioner shall order the noncomplying county or municipality to respond to this report in accordance with subsection 3. [1983, c. 581, §§10, 59 (NEW).]

[ 2013, c. 27, §§1, 2 (AMD) .]

**3. Standards compliance.** Each county and municipal detention facility shall, unless granted a variance pursuant to subsection 5, comply with the mandatory standards established by the commissioner.

A. Within 60 days from the receipt of an inspection report for each mandatory standard listed in subsection 2, paragraph D, subparagraph (2), the county or municipality shall either:

(1) Correct deficiencies listed in the report and submit to the department a written response listing the corrections made; or

(2) Offer a plan to correct those deficiencies for consideration by the department. [1983, c. 581, §§10, 59 (NEW).]

B. If a county or municipality fails to correct deficiencies and offers no plan of correction, or if the plan of correction offered to the department is determined inadequate by the commissioner, the commissioner shall determine an appropriate action to restrict or modify the operations of the facility, consistent with the nature of the uncorrected deficiencies, which action may include ordering an entire facility closed until the deficiencies have been corrected.

(1) Before any such action is taken, the commissioner shall notify the county or municipality in writing of the planned action and shall offer the opportunity to meet and discuss the planned action.

(2) If a meeting is not requested by the county or municipality within 15 days after the county or municipality receives notice of the planned action, or if a meeting is held and fails to produce a plan of correction acceptable to the commissioner, the commissioner shall take the planned action. [1983, c. 581, §§10, 59 (NEW).]

[ 1983, c. 581, §§10, 59 (NEW) .]

**4. Emergency powers.** The commissioner may take immediate action in response to noncompliance with a mandatory standard, if the noncompliance is determined to endanger the safety of the staff, inmates or visitors of any county or municipal detention facility.

A. The commissioner's action under this subsection shall expire within 90 days or upon compliance with the mandatory standard. [1983, c. 581, §§10, 59 (NEW).]

B. After having taken action under this section, the commissioner shall send a written inspection report to the affected facility. [1983, c. 581, §§10, 59 (NEW).]

C. The commissioner shall decide what long-term action to take with respect to the affected facility on the basis of county or municipality response to the inspection report and subsequent meetings. [1983, c. 581, §§10, 59 (NEW).]

[ 1983, c. 581, §§10, 59 (NEW) .]

**5. Variances.** The commissioner shall establish written procedures to govern the submission and consideration of requests for variances from established departmental standards, including provisions for department consideration of appeals of decisions.

A. The commissioner may grant a variance only when he determines that the variance will not result in diminishing the safety, health or security of staff, inmates or visitors of a county or municipal detention facility. [1983, c. 581, §§10, 59 (NEW).]

B. The commissioner may grant variances to counties and municipalities for periods of up to 2 years. [1983, c. 581, §§10, 59 (NEW).]

C. County and municipal officials may request variances from mandatory department standards if:

(1) Efforts are underway to achieve compliance and continued failure to comply is only temporary; or

(2) The intent and spirit of the standards may be attained through other means. [1983, c. 581, §§10, 59 (NEW).]

D. The officials applying for a variance have the burden of showing clear justification for the variance. [1983, c. 581, §§10, 59 (NEW).]

[ 1983, c. 581, §§10, 59 (NEW) .]

**6. Advisory review.** The commissioner shall create and maintain a county and municipal detention facility advisory committee.

A. The committee shall consist of representatives of the Department of Corrections, Maine Sheriffs' Association, Maine County Commissioners' Association, Maine Chiefs of Police Association, Attorney General, Legislature and citizens. [1983, c. 581, §§10, 59 (NEW).]

B. The terms of members of this committee shall be one year. [1983, c. 581, §§10, 59 (NEW).]

C. Members of the county and municipal detention facility advisory committee are eligible for reappointment at the expiration of their term. [1983, c. 581, §§10, 59 (NEW).]

D. The commissioner shall consult the committee when promulgating standards and may consult the committee when variances are sought, when actions are contemplated by the commissioner in response to a failure to comply with standards and when the commissioner determines that the consultation is necessary for other reasons. [1983, c. 581, §§10, 59 (NEW).]

[ 1983, c. 581, §§10, 59 (NEW) .]

**7. Technical assistance.** The commissioner may provide technical assistance to county and municipal detention facilities to facilitate compliance with standards.

[ 1983, c. 581, §§10, 59 (NEW) .]

#### SECTION HISTORY

1983, c. 581, §§10, 59 (NEW). 2007, c. 102, §6 (AMD). 2013, c. 27, §§1, 2 (AMD).

## §1208-A. STANDARDS FOR ADDITIONAL ACCOMMODATIONS

The commissioner shall establish standards for facilities not covered by section 1208 that are used to house county prisoners, including secure detention facilities as defined in Title 15, section 3003, subsection 24-A and temporary holding resources as defined in Title 15, section 3003, subsection 26 and has the same power to determine compliance with and enforce those standards as provided under section 1208. [ 2007, c. 102, §7 (AMD).]

#### SECTION HISTORY

1989, c. 321, §2 (NEW). 1991, c. 314, §16 (AMD). 2007, c. 102, §7 (AMD).

## §1209. JUVENILE JUSTICE ADVISORY GROUP

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Act" means the Juvenile Justice and Delinquency Prevention Act of 1974, Public Law 93-415.

[1983, c. 581, §§10, 59 (NEW).]

B. "Group" means the Juvenile Justice Advisory Group, as established by Executive Order 16 Fiscal Year 1981-82. [1983, c. 581, §§10, 59 (NEW).]

[ 1983, c. 581, §§10, 59 (NEW) .]

**2. Duties.** The group shall:

A. Operate as the supervisory board for all planning, administrative and funding functions of the Act; [1983, c. 581, §§10, 59 (NEW).]

B. Make subgrants for planning or for the improvement of juvenile justice consistent with the intent of applicable state and federal legislation; [1983, c. 581, §§10, 59 (NEW).]

C. Develop, approve and implement the state's juvenile justice plan; [1983, c. 581, §§10, 59 (NEW).]

D. Monitor state compliance with the requirements of the Act; [1983, c. 581, §§10, 59 (NEW).]

E. Review and approve or disapprove all juvenile justice and delinquency prevention subgrant applications submitted to the group; [1983, c. 581, §§10, 59 (NEW).]

F. Develop more effective education, training, research, prevention, diversion, treatment and rehabilitation programs in the area of juvenile delinquency and improvement of the juvenile justice system; [1983, c. 581, §§10 and 59 (NEW).]

G. Submit to the Governor and Legislature, at least annually, recommendations with respect to matters related to its functions, including recommendations on state compliance with the requirements of the Act; [1983, c. 581, §§10, 59 (NEW).]

H. Review the progress and accomplishments of juvenile justice and delinquency projects funded under the state plan; and [1983, c. 581, §10, 59 (NEW).]

I. Regularly seek comments and opinions from juveniles currently under the jurisdiction of the juvenile justice system. [1983, c. 581, §10, 59 (NEW).]

[ 1983, c. 581, §10, 59 (NEW) .]

**3. Membership.** Membership of the group is governed as follows.

A. Regular membership of the group shall be in accordance with the requirements of the Act. [1983, c. 581, §10, 59 (NEW).]

B. Members are appointed by the Governor for a term of 4 years, or until a successor is appointed, and are eligible for reappointment at the discretion of the Governor. [1983, c. 581, §10, 59 (NEW) .]

C. Members appointed to fill an unexpired term shall serve until the expiration date of that term or until a successor is appointed. [1983, c. 581, §10, 59 (NEW) .]

D. The Commissioner of Corrections, Commissioner of Education, Commissioner of Health and Human Services and Commissioner of Public Safety are ex officio, voting members of the group. [2003, c. 2, §99 (COR) .]

E. Neither a majority of the members of the group, nor the chairman, may be full-time employees of the Federal Government, State Government or local government. [1983, c. 581, §10, 59 (NEW) .]

F. [2005, c. 328, §16 (RP) .]

[ 2005, c. 328, §16 (AMD) .]

**4. Departmental duties and powers.** The duties and powers of the Department of Corrections are as follows.

A. The department shall have the powers necessary to an agency designated by the Governor as the sole agency responsible for supervising the group in the preparation and administration of the state plan within the meaning of the Act. [1983, c. 581, §10, 59 (NEW) .]

B. The department shall serve as the fiscal agent of the group. [1983, c. 581, §10, 59 (NEW) .]

C. The department may employ a full-time juvenile justice specialist, subject to the approval of the group, and such additional staff as necessary.

(1) The professional staff shall be unclassified.

(2) Clerical staff shall be employed subject to the Civil Service Law. [1985, c. 785, Pt. B, §150 (AMD) .]

D. The department, at the direction of the group, may make grants to state agencies, to units of general local government and to private not-for-profit organizations for the development of more effective education, training, research, prevention, diversion, treatment and rehabilitation programs in the area of juvenile delinquency and programs to improve the juvenile justice system. [1983, c. 581, §10, 59 (NEW) .]

E. When the group directs that a grant be made to a department or agency of State Government, the department shall send to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs:

(1) A copy of the approved grant application;

(2) Information on the expected length of programs to be funded by the grant; and

(3) Information on restrictions or limitations placed on the grant application. [1983, c. 581, §§10, 59 (NEW).]

F. The department may accept funds from the Federal Government, from any political subdivision of the State, or from any individual, foundation or corporation and may expend those funds for purposes consistent with this section. [1983, c. 581, §§10, 59 (NEW).]

[ 1985, c. 785, Pt. B, §150 (AMD) .]

**5. Funds not to lapse.** Funds appropriated to carry out the purpose of this section shall not lapse, but shall carry from year to year.

[ 1983, c. 581, §§10, 59 (NEW) .]

#### SECTION HISTORY

1983, c. 581, §§10,59 (NEW). 1985, c. 785, §B150 (AMD). 1989, c. 700, §A160 (AMD). RR 1995, c. 2, §81 (COR). 2001, c. 354, §3 (AMD). RR 2003, c. 2, §99 (COR). 2005, c. 328, §16 (AMD).

### **§1209-A. STATE SENTENCING AND CORRECTIONS PRACTICES COORDINATING COUNCIL**

*(REPEALED)*

#### SECTION HISTORY

2007, c. 377, §8 (NEW). 2007, c. 653, Pt. A, §§21-24 (AMD). 2013, c. 533, §24 (RP).

### **§1210. COMMUNITY CORRECTIONS**

*(REPEALED)*

#### SECTION HISTORY

1985, c. 821, §18 (NEW). 1987, c. 335, §§1,2 (AMD). 1989, c. 127, §§1,2 (AMD). 1989, c. 887, §§5-9 (AMD). RR 1991, c. 2, §127 (COR). 1991, c. 622, §W (AMD). 1991, c. 690, (AMD). 1993, c. 410, §P1 (AMD). 1993, c. 431, §§1-3 (AMD). 1993, c. 517, §1 (AMD). 1995, c. 368, §K3 (AMD). 1995, c. 449, §1 (AMD). 1995, c. 449, §2 (AFF). 1995, c. 461, §§1,2 (AMD). 1995, c. 665, §§MM1,2 (AMD). 1995, c. 665, §MM3 (AFF). 1997, c. 533, §1 (AMD). 1997, c. 753, §1 (RP).

### **§1210-A. COMMUNITY CORRECTIONS**

*(REPEALED)*

#### SECTION HISTORY

1997, c. 753, §2 (NEW). 2001, c. 698, §§4,5 (AMD). 2001, c. 698, §7 (AFF). 2003, c. 20, §R9 (AMD). 2003, c. 711, §A20 (AMD). 2003, c. 711, §D2 (AFF). 2007, c. 377, §§9-11 (AMD). 2007, c. 653, Pt. A, §25 (AMD). MRSA T. 34-A, §1210-A, sub-§11 (RP).

## **§1210-B. COMMUNITY CORRECTIONS FUND AND COUNTY JAIL PRISONER SUPPORT FUND**

*(REPEALED)*

### SECTION HISTORY

2007, c. 377, §12 (NEW). 2007, c. 377, §17 (AFF). 2007, c. 539, Pt. SSS, §1 (AMD). 2007, c. 653, Pt. A, §26 (RP).

## **§1210-C. COMMUNITY CORRECTIONS INCENTIVE FUND**

*(REPEALED)*

### SECTION HISTORY

2007, c. 377, §13 (NEW). 2007, c. 653, Pt. A, §27 (RP).

## **§1211. JAIL INDUSTRIES AUTHORITY**

*(REPEALED)*

### SECTION HISTORY

1989, c. 416, (NEW). 1989, c. 654, §§5-9,13 (AMD). 1999, c. 668, §121 (RP).

## **§1212. CONFIDENTIAL INFORMATION**

The following information pertaining to department employees and independent contractors is confidential and that part of any record of the department containing this information is not a public record, as defined in Title 1, section 402, subsection 3: [1991, c. 281, (NEW).]

### **1. Addresses and telephone numbers.** Nonbusiness addresses and telephone numbers;

[ 1991, c. 281, (NEW) .]

**2. Information regarding other persons.** The existence, names, addresses and telephone numbers of family members, household members and persons to be notified in the event of an emergency; and

[ 1991, c. 281, (NEW) .]

### **3. Work schedules.** Information pertaining to work schedules.

[ 1991, c. 281, (NEW) .]

### SECTION HISTORY

1991, c. 281, (NEW).

## **§1213. CONTRACT TO PROVIDE MEDICAL CARE**

Any individual medical provider contracting with the department when providing medical care within a correctional or detention facility pursuant to section 3031, subsection 2 under a contract with the department is deemed for purposes of civil liability to be an employee of a governmental entity under the Maine Tort Claims Act, Title 14, chapter 741. [1995, c. 248, §1 (NEW).]

### SECTION HISTORY

1995, c. 248, §1 (NEW).



## §1214. OFFICE OF VICTIM SERVICES

**1. Establishment.** The Office of Victim Services, referred to in this section as the "office," is established within the department to advocate for compliance by the department, any correctional facility, any detention facility, community corrections as defined in former section 1210-A or in section 1210-B or any contract agency with all laws, administrative rules and institutional and other policies relating to the rights and dignity of victims.

A. The Victim Services Coordinator shall report only to the commissioner or an associate commissioner. [2001, c. 439, Pt. G, §1 (NEW).]

B. The Victim Services Coordinator shall, with the approval of the commissioner or an associate commissioner, select other victim advocates needed to carry out the intent of this section and who shall report only to the Victim Services Coordinator. [2001, c. 439, Pt. G, §1 (NEW).]

[ 2007, c. 377, §14 (AMD); 2007, c. 377, §17 (AFF) .]

**2. Victim Services Coordinator.** The Victim Services Coordinator shall direct and coordinate the office.

A. The Victim Services Coordinator shall report only to the commissioner or an associate commissioner. [2001, c. 439, Pt. G, §1 (NEW).]

B. The Victim Services Coordinator shall, with the approval of the commissioner or an associate commissioner, select other victim advocates needed to carry out the intent of this section and who shall report only to the Victim Services Coordinator. [2001, c. 439, Pt. G, §1 (NEW).]

[ 2001, c. 439, Pt. G, §1 (NEW) .]

**3. Duties.** The office, through the Victim Services Coordinator and other victim advocates, shall:

A. Receive or refer complaints made by victims; [2001, c. 439, Pt. G, §1 (NEW).]

B. Intercede on behalf of victims with officials of the department, any correctional facility, any detention facility, community corrections as defined in former section 1210-A or in section 1210-B or any contract agency or assist these persons in the resolution of victim-related issues; [2007, c. 377, §15 (AMD); 2007, c. 377, §17 (AFF).]

C. Act as an information source regarding the rights of victims and keep informed about all laws, administrative rules and institutional and other policies relating to the rights and dignity of victims and about relevant legal decisions and other developments related to the field of corrections, both in this State and in other parts of the country; [2001, c. 439, Pt. G, §1 (NEW).]

D. Ensure that victims who request notice of release receive it; [2001, c. 439, Pt. G, §1 (NEW).]

E. Assist victims who are being harassed by persons in the custody or under the supervision of the department with obtaining protection from that harassment; [2001, c. 477, §2 (AMD).]

F. Assist victims with obtaining victim compensation, restitution and other benefits of restorative justice; and [2001, c. 477, §2 (AMD).]

G. Ensure the safety of clients who are also victims by advising the commissioner of information that may place a client at risk if disclosed pursuant to Title 1, section 402, subsection 3-A. [2001, c. 477, §3 (NEW).]

[ 2007, c. 377, §15 (AMD); 2007, c. 377, §17 (AFF) .]

**4. Confidentiality.** Requests for action by the office must be treated confidentially and may be disclosed only to a state agency if necessary to carry out the statutory functions of that agency or to a criminal justice agency if necessary to carry out the administration of criminal justice or the administration of juvenile criminal justice. In no case may a victim's request for notice of release be disclosed outside the department and the office of the attorney for the State with which the request was filed.

[ 2001, c. 439, Pt. G, §1 (NEW) .]

**5. Report regarding batterers intervention programs.** Beginning January 2003 and annually thereafter, the department shall report to the joint standing committee of the Legislature having jurisdiction over criminal justice matters regarding the work of batterers intervention programs. The report must include information regarding: meeting program benchmarks and goals, developing and implementing new programs, measuring effectiveness of existing programs and communicating and coordinating efforts with providers of substance abuse services, literacy support and other services with whom batterers may need to work in order to participate meaningfully in a batterers intervention program.

[ 2001, c. 686, Pt. D, §1 (NEW) .]

#### SECTION HISTORY

RR 2001, c. 1, §43 (RAL). 2001, c. 439, §G1 (NEW). 2001, c. 458, §3 (NEW). 2001, c. 477, §§2,3 (AMD). 2001, c. 686, §D1 (AMD). 2007, c. 377, §§14, 15 (AMD). 2007, c. 377, §17 (AFF).

## §1214-A. ELDER VICTIMS RESTITUTION FUND

The Elder Victims Restitution Fund, referred to in this section as "the fund," is established for the purpose of compensating elder victims of financial crimes. [2011, c. 241, §3 (NEW).]

**1. Definition.** As used in this section, unless the context otherwise indicates, the term "elder victim" means a victim of a crime who is 65 years of age or older.

[ 2011, c. 241, §3 (NEW) .]

**2. Administration.** The Victim Services Coordinator under section 1214 shall administer the fund. All administrative costs of the fund must be absorbed by the department.

[ 2011, c. 241, §3 (NEW) .]

**3. Funding.** Money collected pursuant to Title 18-A, section 2-105 must be deposited into the fund.

[ 2011, c. 241, §3 (NEW) .]

**4. Use.** The fund may be used for the payment of claims of elder victims of financial crimes who are entitled to receive restitution from offenders as a result of the sentences for the crimes in cases in which those offenders are not meeting their restitution obligations.

[ 2011, c. 241, §3 (NEW) .]

**5. Rules.** The commissioner may adopt rules, which are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A, to carry out the purposes of this section.

[ 2011, c. 241, §3 (NEW) .]

#### SECTION HISTORY

2011, c. 241, §3 (NEW).

## §1215. ACCREDITATION

*(REALLOCATED FROM TITLE 34-A, SECTION 1214)*

The department shall seek accreditation of its correctional and detention facilities by a nationally recognized correctional accrediting body and shall maintain any accreditation obtained. The department shall report to the joint standing committees of the Legislature having jurisdiction over criminal justice matters and appropriations and financial affairs regarding its progress towards accreditation by January 1, 2005. [ 2003, c. 451, Pt. K, §1 (AMD). ]

### SECTION HISTORY

RR 2001, c. 1, §43 (RAL). 2003, c. 451, §K1 (AMD).

## §1216. CONFIDENTIALITY OF INFORMATION

**1. Limited disclosure.** All orders of commitment, medical and administrative records, applications and reports, and facts contained in them, pertaining to any person receiving services from the department must be kept confidential and may not be disclosed by any person, except that public records must be disclosed in accordance with Title 1, section 408-A; criminal history record information may be disseminated in accordance with Title 16, chapter 7; and documents other than those documents pertaining to information obtained by the department for the purpose of evaluating a client's ability to participate in a community-based program or from informants in a correctional or detention facility for the purpose of determining whether facility rules have been violated or pertaining to a victim's request for notice of release may, and must upon request, be disclosed:

A. To any person if the person receiving services, that person's legal guardian, if any, and, if that person is a minor, that person's parent or legal guardian give informed written consent to the disclosure of the documents referred to in this subsection after being given the opportunity to review the documents sought to be disclosed; [ 2013, c. 588, Pt. A, §44 (RPR). ]

B. To any state agency if necessary to carry out the statutory functions of that agency; [ 2013, c. 588, Pt. A, §44 (RPR). ]

C. If ordered by a court of record, subject to any limitation in the Maine Rules of Evidence, Rule 503; [ 2013, c. 588, Pt. A, §44 (RPR). ]

D. To any criminal justice agency if necessary to carry out the administration of criminal justice or the administration of juvenile criminal justice or for criminal justice agency employment; [ 2013, c. 588, Pt. A, §44 (RPR). ]

E. To persons engaged in research if:

- (1) The research plan is first submitted to and approved by the commissioner;
- (2) The disclosure is approved by the commissioner; and
- (3) Neither original records nor identifying data are removed from the facility or office that prepared the records.

The commissioner and the person doing the research shall preserve the anonymity of the person receiving services from the department and may not disseminate data that refer to that person by name or number or in any other way that might lead to the person's identification; [ 2013, c. 588, Pt. A, §44 (RPR). ]

F. To persons who directly supervise or report on the health, behavior or progress of a juvenile, to the superintendent of a juvenile's school and the superintendent's designees and to agencies that are or might become responsible for the health or welfare of a juvenile if the information is relevant to and disseminated for the purpose of creating or maintaining an individualized plan for the juvenile's rehabilitation, including reintegration into the school; or [ 2013, c. 588, Pt. A, §44 (RPR). ]

G. To any state agency engaged in statistical analysis for the purpose of improving the delivery of services to persons who are or might become mutual clients if:

- (1) The plan for the statistical analysis is first submitted to and approved by the commissioner; and
- (2) The disclosure is approved by the commissioner.

The commissioner and the state agency requesting the information shall preserve the anonymity of the persons receiving services from the department and may not disseminate data that refer to any person by name or number or that in any other way might lead to a person's identification. [ 2013, c. 588, Pt. A, §44 (RPR) .]

Notwithstanding any other provision of law, the department may release the names, dates of birth and social security numbers of persons receiving services from the department and, if applicable, eligibility numbers and the dates on which those persons received services to any state or federal agency for the sole purpose of determining eligibility and billing for services and payments under federally funded programs administered by the agency. The department may also release to the agency information required for and to be used solely for audit or research purposes, consistent with federal law, for those services provided by or through the department. Agency personnel shall treat this information as confidential in accordance with federal and state law and shall return the records when their purpose has been served.

[ 2013, c. 588, Pt. A, §44 (RPR) .]

**2. Release of certain information to victims.** Notwithstanding subsection 1, upon the request of a person who was the victim of a crime for which a client was incarcerated, as verified by the department or the prosecuting attorney, the department shall disclose the following information to the victim:

- A. Whether the client has been charged with committing any crime while incarcerated and, if so, the crime with which the client has been charged; and [ 2003, c. 205, §10 (NEW) .]
- B. Whether the client has been disciplined while incarcerated and, if so, the offense for which the disciplinary action was taken and the type of disciplinary action taken. [ 2003, c. 205, §10 (NEW) .]

[ 2003, c. 205, §10 (NEW) .]

**3. Civil violation.** A person who discloses information in violation of this section commits a civil violation for which a fine not to exceed \$1,000 may be adjudged.

[ 2003, c. 205, §10 (NEW) .]

**4. Disclosure of confidential information.** The disclosure of confidential information as provided by this section is also governed by Title 5, section 9057, subsection 6.

[ 2003, c. 205, §10 (NEW) .]

**5. Disclosure of information.** Nothing in this section permits or requires the disclosure of information to the extent it is designated confidential by another provision of law.

[ 2003, c. 205, §10 (NEW) .]

**6. Assessment tools.** Documents in the possession of the department used to screen or assess clients, including, but not limited to, questionnaires and test materials, are not public records for purposes of Title 1, chapter 13, subchapter 1. The department shall release these documents on request to any other state agency if necessary to carry out the statutory functions of that agency and to any committee or study commission established by the Legislature with authority to examine issues related to mental health.

[ 2003, c. 205, §10 (NEW) .]

#### SECTION HISTORY

2003, c. 205, §10 (NEW). 2003, c. 689, §B6 (REV). 2005, c. 487, §§2-4 (AMD). 2011, c. 515, §2 (AMD). 2011, c. 662, §22 (AMD). 2013, c. 267, Pt. B, §27 (AMD). 2013, c. 424, Pt. B, §13 (AMD). 2013, c. 588, Pt. A, §44 (AMD).

### §1217. PRISONER BOARDING FUND

The Prisoner Boarding Fund is established in the department to provide funding for the boarding of prisoners at county jail facilities. [2009, c. 213, Pt. W, §1 (NEW).]

**1. Commissioner's powers.** The commissioner may receive and use, for the purpose of this section, money appropriated by the State.

[ 2009, c. 213, Pt. W, §1 (NEW) .]

**2. Prisoner Boarding Fund.** All funds appropriated for the purpose of this section must be credited to the Prisoner Boarding Fund. State funds appropriated to the Prisoner Boarding Fund that are unexpended at the end of the fiscal year for which the funds are appropriated do not lapse, but must carry forward into subsequent fiscal years to be expended for the purpose of this section.

[ 2009, c. 213, Pt. W, §1 (NEW) .]

#### SECTION HISTORY

2009, c. 213, Pt. W, §1 (NEW).

### §1218. ELECTRONIC MONITORING FUND

*(REPEALED)*

#### SECTION HISTORY

2011, c. 655, Pt. EEE, §1 (NEW). 2013, c. 227, §5 (RP).

## Subchapter 3: COMMISSIONER

### §1401. OFFICE

**1. Appointment.** The Governor shall appoint the Commissioner of Corrections, subject to review by the joint standing committee of the Legislature having jurisdiction over corrections matters and to confirmation by the Senate, to serve at the pleasure of the Governor.

[ 1995, c. 3, §4 (AMD) .]

**2. Vacancy.** Vacancies in the office of the commissioner shall be filled as follows.

A. Any vacancy in the office of commissioner shall be filled by appointment under subsection 1.

[1983, c. 459, §6 (NEW).]

B. If the office of the commissioner is vacant or if the commissioner is absent or disabled, the associate commissioner shall perform the duties and have the powers provided by law for the commissioner. [1983, c. 459, §6 (NEW).]

[ 1983, c. 459, §6 (NEW) .]

**3. Qualifications.** To qualify for appointment as commissioner, a person must have training and experience in correctional administration or satisfactory experience in the direction of work of a comparable nature.

[ 1983, c. 459, §6 (NEW) .]

#### SECTION HISTORY

1983, c. 459, §6 (NEW). 1995, c. 3, §4 (AMD).

## §1402. DUTIES

In addition to other duties set out in this Title, the commissioner has the following duties. [1983, c. 459, §6 (NEW).]

**1. General.** The commissioner has general supervision, management and control of the research and planning, grounds, buildings, property, officers, employees and clients of any correctional facility, detention facility or correctional program.

[ 1991, c. 314, §17 (AMD) .]

**2. Enforcement of laws.** The commissioner shall enforce all laws concerning correctional facilities, unless specific law enforcement duties are given by law to other persons.

[ 1983, c. 459, §6 (NEW) .]

**3. Rules.** Rules shall be established as follows.

A. The commissioner shall establish, in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, such rules as he determines appropriate or necessary for the care and management of the property of all correctional facilities, for the production and distribution of industrial products of the correctional facilities and for the execution of the statutory purposes and functions of correctional facilities or correctional programs. [1983, c. 459, §6 (NEW).]

B. The central principle underlying all rules, regulations, procedures and practices relating to clients is that the clients retain all rights of an ordinary citizen, except those expressly or by necessary implication taken from them by law. [1991, c. 314, §18 (AMD).]

[ 1991, c. 314, §18 (AMD) .]

**4. Career and technical education.** Establishment of career and technical education shall be as follows.

A. The commissioner shall establish and maintain suitable courses for career and technical education in the correctional facilities.

(1) The commissioner shall install equipment necessary to carry out this duty.

(2) The commissioner shall employ suitable and qualified instructors necessary to carry out this duty, subject to the approval of the Department of Education. [2005, c. 683, Pt. B, §25 (AMD).]

B. The expenses of carrying out this subsection shall be paid from the appropriations for the correctional facilities. [1983, c. 459, §6 (NEW).]

[ 2005, c. 683, Pt. B, §25 (AMD) .]

**5. Grievance procedures.** The commissioner shall establish procedures for hearing grievances of clients. The commissioner shall establish a separate grievance process for addressing complaints by prisoners about their medical and mental health treatment.

[ 2009, c. 1, Pt. S, §3 (AMD) .]

**6. County jail, holding facility and short-term detention area standards.**

[ 1983, c. 581, §§11,59 (RP) .]

**7. Abuse allegations in correctional and detention facilities.** The commissioner is responsible for ensuring appropriate intervention and remediation in cases of substantiated abuse and neglect in correctional and detention facilities. The commissioner shall ensure, through inspection at least every 2 years, that all correctional and detention facilities meet applicable federal and state standards relating to the health and safety of clients of these facilities.

[ 1991, c. 314, §20 (AMD) .]

**8. Allegations of child abuse or neglect in correctional and detention facilities.** The commissioner is responsible for the investigation of all reports of suspected child abuse or neglect in correctional and detention facilities.

A. These investigations must be conducted with the Department of Health and Human Services, as appropriate, and, in cases where there are allegations or indications of criminal conduct, with the Department of the Attorney General, as appropriate. [1991, c. 314, §20 (AMD); 2003, c. 689, Pt. B, §6 (REV).]

B. The commissioner shall negotiate joint working agreements with the Department of Health and Human Services and the Department of the Attorney General concerning procedures and respective responsibilities for conducting investigations of allegations of child abuse or neglect in correctional and detention facilities. [1991, c. 314, §20 (AMD); 2003, c. 689, Pt. B, §6 (REV) .]

[ 1991, c. 314, §20 (AMD); 2003, c. 689, Pt. B, §6 (REV) .]

**9. Statement of correctional system impact.** The commissioner shall prepare statements pertaining to the impact that proposed legislation has upon correctional system resources, including the cost that the correctional system would bear. The commissioner shall make inquiry of a statewide association of prosecuting attorneys, the judicial branch, a statewide association of county sheriffs and any other parties, as appropriate, in order to provide the most accurate estimates of the correctional system impact, including the number of additional probationers, the number of additional incarcerated individuals and the number of additional jail and prison beds that may reasonably be anticipated from enactment of the legislation, by fiscal year. Whenever practicable, the statements must also include the impact of such legislation in future biennia as well. For purposes of this subsection, the correctional system includes correctional facilities and services operated or funded by the State or by any county government. The statements must be furnished to the appropriate committee of the Legislature for the information of its members and to the legislative staff office designated to collect and assemble fiscal information for use of legislative committees under Title 3, section 163-A, subsection 10. The statements must be considered in the preparation of the fiscal note included

in a committee amendment or other amendment if the legislation or amendment has a fiscal impact on the correctional system. A statement is not required for any legislation that has no impact upon the correctional system.

[ 2007, c. 240, Pt. YYY, §2 (AMD) .]

**10. Rehabilitation programs.** Within the limits of available resources, the commissioner shall establish and maintain programs, inside and outside of correctional facilities, that provide rehabilitation services and opportunities for clients.

[ 1991, c. 355, §3 (NEW) .]

**11. Report requirement.** The commissioner shall report annually, no later than January 4th of each year, to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters and the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs regarding recidivism information including, but not limited to:

A. The number of juvenile offenders in the correctional facilities and their reoffending rates; [ 2003, c. 20, Pt. N, §1 (NEW) .]

B. The number of incarcerated adults who were adjudicated as having committed a juvenile offense; and [ 2003, c. 20, Pt. N, §1 (NEW) .]

C. The recidivism rates of juvenile offenders as adults. [ 2003, c. 20, Pt. N, §1 (NEW) .]

[ 2003, c. 20, Pt. N, §1 (NEW) .]

#### SECTION HISTORY

1983, c. 459, §6 (NEW). 1983, c. 581, §§11,59 (AMD). 1987, c. 744, §11 (AMD). 1989, c. 925, §17 (AMD). 1991, c. 314, §§17-20 (AMD). 1991, c. 355, §3 (AMD). 2001, c. 659, §11 (AMD). 2003, c. 20, §N1 (AMD). 2003, c. 689, §B6 (REV). 2005, c. 397, §D3 (REV). 2005, c. 683, §B25 (AMD). 2007, c. 240, Pt. YYY, §2 (AMD). 2009, c. 1, Pt. S, §3 (AMD).

## §1403. POWERS

In addition to other powers granted in this Title, the commissioner has the following powers. [ 1983, c. 459, §6 (NEW) .]

**1. General powers.** The commissioner may perform any legal act relating to the care, custody, treatment, relief and improvement of clients or may purchase residential services when the department's correctional and detention facilities do not provide the appropriate services for the client.

[ 1991, c. 314, §21 (AMD) .]

**2. Appointments.** The commissioner's appointment powers are as follows.

A. The commissioner may appoint, subject to the Civil Service Law and except as otherwise provided, any employees who may be necessary, including those intermittent employees as defined in Title 5, section 7053 needed to offset the overtime costs related to unscheduled, unanticipated overtime. These intermittent positions in the institutional services unit may be used only at preidentified posts and work sites. [ 2013, c. 491, §3 (AMD) .]

B. The commissioner may appoint and set the salary for one deputy commissioner and 2 associate commissioners to assist in carrying out the responsibilities of the department.

(1) An appointment is for an indeterminate term and until a successor is appointed and qualified or during the pleasure of the commissioner.



(2) To be eligible for appointment as the deputy commissioner or an associate commissioner, a person must have training and experience in general management.

(3) The deputy commissioner has the powers, duties, obligations and liabilities of the commissioner when the commissioner is unable to perform the duties of the office. [2013, c. 491, §3 (AMD).]

C. [2013, c. 491, §3 (RP).]

D. The commissioner may appoint and set the salary for a director of operations, a policy development coordinator and a media and public information officer to assist in carrying out the responsibilities of the department. An appointment is for an indeterminate term and until a successor is appointed and qualified or during the pleasure of the commissioner. [2013, c. 491, §3 (NEW).]

[2013, c. 491, §3 (AMD).]

**3. Delegation.** The commissioner's delegation powers are as follows.

A. Unless a specific statute otherwise directs, the commissioner may delegate powers and duties given under this Title to the deputy commissioner, associate commissioners, chief administrative officers and regional correctional administrators. [2013, c. 491, §4 (AMD).]

B. The commissioner may empower the deputy commissioner, associate commissioners, chief administrative officers and regional correctional administrators to further delegate powers and duties delegated to them by the commissioner. [2013, c. 491, §4 (AMD).]

B-1. Unless a specific statute otherwise directs, the commissioner may empower chief administrative officers to delegate powers and duties given to them by chapter 3 and may empower regional correctional administrators to delegate powers and duties given to them by chapter 5. [1995, c. 502, Pt. F, §19 (AMD).]

C. The deputy commissioner, an associate commissioner or associate commissioners may be designated to assist in the development of community correctional programs at the county level and to coordinate activities of the department with each county and any county correctional advisory groups. The deputy commissioner, associate commissioner or associate commissioners may appoint staff to assist in carrying out this paragraph. [2013, c. 491, §4 (AMD).]

[2013, c. 491, §4 (AMD).]

**4. Funding sources.** The commissioner may use the following funding sources.

A. The commissioner may accept for the State any federal funds appropriated under federal law relating to the juvenile offender and may do whatever is necessary to carry out the federal law. [1983, c. 459, §6 (NEW).]

B. The commissioner may accept, from any other agency of government, person, group or corporation, any funds which may be available in carrying out this Title. [1983, c. 459, §6 (NEW).]

C. The commissioner may apply for and receive federal funds under the United States Housing Act of 1954, Public Law 560, Title 7. [1983, c. 459, §6 (NEW).]

[1983, c. 459, §6 (NEW).]

**5. Lease of unused buildings.** The commissioner may, with the approval of the Director of the Bureau of General Services, lease unused buildings at the correctional and detention facilities for the purposes of providing services to clients.

A. The leases must be for a period not to exceed 2 years and may be extended, with the approval of the Director of the Bureau of General Services, for 3 more 2-year periods. [1995, c. 111, §1 (AMD).]

B. The commissioner shall submit a plan of the proposed leases and their impact on the correctional and detention facilities and clients to the joint standing committee of the Legislature having jurisdiction over corrections no later than January 31st of each year. [1991, c. 314, §24 (AMD).]

[ 1995, c. 111, §1 (AMD) .]

**5-A. Lease of Long Creek Youth Development Center building.** Notwithstanding subsection 5 and Title 5, chapter 154, the commissioner may, with the approval of the Director of the Bureau of General Services, lease any building that the commissioner determines is no longer needed to be a part of the Long Creek Youth Development Center for the purpose of providing services to clients under such terms as the commissioner and director determine appropriate.

[ 1995, c. 502, Pt. F, §20 (NEW); 2001, c. 439, Pt. G, §6 (AMD) .]

**6. Acceptance or conveyance of donated personal property.** The commissioner may accept donations of personal property to be used at a correctional or detention facility. If, at a later date, the donated property ceases to be useful to the correctional or detention facility, the commissioner may sell the property and use the proceeds for the benefit of the correctional or detention facility to which the property was originally donated.

[ 1991, c. 314, §25 (AMD) .]

**7. Establishment of farm programs and gravel mining programs to support farm programs at correctional facilities.** The commissioner may establish a farm program at each correctional facility for the purposes of producing agricultural and farm products and teaching prisoners and juvenile clients cultivation and gardening techniques. The commissioner may also establish a gravel mining program at any correctional facility sited on land that contains sufficient gravel for the purpose of supporting the farm programs.

A. Products from farm programs under this subsection must be used by correctional facilities. If a surplus exists, it may be:

- (1) Sold or distributed to other state, county or local governmental entities;
- (2) Exchanged with other state, county or local governmental entities for services or other goods;
- (3) Sold to or exchanged with private Maine businesses; or
- (4) Sold to or exchanged with community agencies as defined in section 1206, subsection 1.

[2011, c. 340, §1 (AMD) .]

B. The revenue generated by the sale of farm products under this subsection must be deposited in a special account. This account does not lapse at the end of a fiscal year but must be carried forward from year to year. [2011, c. 340, §1 (AMD) .]

C. The funds in the special account under paragraph B may be expended to implement and maintain farm programs in correctional facilities. These expenditures include, but are not limited to, the purchase of necessary materials and equipment, construction, administrative costs and employee salaries. [2011, c. 340, §1 (AMD) .]

D. The commissioner may establish, for the purpose of supporting farm programs at correctional facilities by generating additional revenue for the special account under paragraph B, a gravel mining program at any correctional facility sited on land that contains sufficient gravel. The commissioner shall determine the amount of gravel to be mined. Gravel not used by correctional facilities may be sold, distributed or exchanged in the same manner as farm products pursuant to paragraph A. In addition to the expenditures allowed by paragraph C, the revenue generated from a gravel mining program may be expended to implement and maintain gravel mining programs in correctional facilities. [2011, c. 340, §1 (NEW) .]

[ 2011, c. 340, §1 (AMD) .]

**8. Receipt of United States prisoners or adjudicated juveniles.** The commissioner's power to accept United States prisoners or adjudicated juveniles is as follows.

A. The commissioner may receive in any correctional facility prisoners detained by the United States or convicted of an offense against the United States and committed for a term of imprisonment to the custody of the Attorney General of the United States if:

- (1) The Attorney General of the United States designates a Maine correctional facility as the place of confinement for the prisoner; and
- (2) The commissioner approves and agrees to accept and keep the prisoner in a Maine correctional facility. [1989, c. 127, §3 (RPR).]

B. The commissioner may receive in any juvenile facility juveniles detained by the United States or adjudicated of an offense against the United States and committed for a term of institutionalization to the custody of the Attorney General of the United States if:

- (1) The Attorney General of the United States designates a Maine juvenile facility as the place of confinement for the juvenile; and
- (2) The commissioner approves and agrees to accept and keep the juvenile in a Maine juvenile facility. [1989, c. 127, §3 (RPR).]

C. The commissioner may contract with the Attorney General of the United States or officer designated by the Congress for the care, custody, subsistence, education, treatment and training of any prisoner or juvenile accepted under this section. All sums paid pursuant to contracts authorized by this section shall accrue to the General Fund. [1989, c. 127, §3 (NEW).]

[ 1989, c. 127, §3 (RPR) .]

**9. Industries programs.** The commissioner may establish career and technical training, work and industries programs, including those permitted under a certification issued by the United States Department of Justice under 18 United States Code, Section 1761.

A. The program may make services and goods available for use by correctional facilities or for purchase by other state, county or local governmental entities, private businesses in the State, community agencies, as defined in section 1206, subsection 1, or the public. The program may also donate services or goods to other state, county or local governmental entities for the purpose of promoting prison industries or to public or private nonprofit organizations. [2011, c. 515, §3 (AMD).]

B. The commissioner may authorize any person or business entity purchasing goods manufactured at a correctional facility to resell those articles if that person or entity requests, in writing, authority from the commissioner at the time the initial purchase is made. [1985, c. 821, §21 (NEW).]

C. All goods manufactured at a correctional facility for sale shall be distinctly labeled or branded with the words "Manufactured at a Maine State Correctional Facility", except those goods produced under a program certified by the United States Department of Justice under the United States Code, Title 18, Section 1761. [1989, c. 127, §4 (AMD).]

D. All revenues from direct sales of goods and services produced by prisoners at correctional facilities and all amounts received from a private sector industry participating with the Department of Corrections in an industries program certified by the United States Department of Justice under the United States Code, Title 18, Section 1761, in consideration of lease of industry space, provision of utilities, trash removal and other services provided to the private industry that are related to the use of industry space at correctional facilities must be deposited into the department's industries enterprise account, which does not lapse. All revenues generated from career and technical training programs must be deposited into Other Special Revenue Funds accounts, which do not lapse and must be used to support the costs of vocational training programs. [2013, c. 368, Pt. ZZZ, §1 (AMD).]

E. Funds from these industries accounts may be used to pay for materials, supplies, equipment, salaries and other costs of establishing and operating career and technical training, work and industrial programs. For industries programs certified by the United States Department of Justice under the United States Code, Title 18, Section 1761, mandatory contributions for crime victim services must be made from these industries accounts and transferred to the control of the Office of Victim Services, as established in section 1214. [2001, c. 439, Pt. G, §2 (AMD); 2003, c. 545, §6 (REV).]

F. The commissioner shall, in consultation with the Maine Apprenticeship Program established in Title 26, section 3202, develop policies concerning job displacement and safety and policies to develop opportunities in the prison industries programs. [2011, c. 491, §16 (AMD).]

[ 2013, c. 368, Pt. ZZZ, §1 (AMD) .]

**10. Client benefit welfare account.** The commissioner shall provide an accounting of all client benefit welfare accounts each fiscal year to the joint select committee of the Legislature having jurisdiction over corrections matters. The annual accounting must include total income for the year, total expenditures for the year, anticipated capital and operating expenditures from these accounts in the next fiscal year and balances in the accounts. Nothing in this subsection may change the nature of these accounts as internal management tools.

[ 1999, c. 583, §3 (AMD) .]

**11. Contracting agent.** The chief administrative officer is the contracting agent for all sales of articles from a correctional facility and for all other contracts made on behalf of the correctional facility except those made by the State Purchasing Agent.

A. All contracts must be made in the manner prescribed by the commissioner. [1999, c. 583, §4 (NEW) .]

B. A contract may not be accepted by the chief administrative officer, unless the contractor gives satisfactory security for its performance. [1999, c. 583, §4 (NEW) .]

C. An employee of the correctional facility may not be directly or indirectly interested in any contract. [1999, c. 583, §4 (NEW) .]

[ 1999, c. 583, §4 (NEW) .]

**12. Transfer of funds.** Notwithstanding Title 5, section 1585 or any other provision of law, the commissioner, upon recommendation of the State Budget Officer and approval of the Governor, is authorized to transfer by financial order All Other funding between accounts within the same fund for the purposes of paying food, heating and utility expenses.

[ 2011, c. 380, Pt. AA, §1 (NEW) .]

#### SECTION HISTORY

1983, c. 459, §6 (NEW). 1983, c. 581, §§12,59 (AMD). 1983, c. 724, (AMD). 1983, c. 729, §6 (AMD). 1985, c. 67, §1 (AMD). 1985, c. 785, §B151 (AMD). 1985, c. 821, §§19-21 (AMD). 1987, c. 589, (AMD). 1989, c. 127, §§3,4 (AMD). RR 1991, c. 2, §128 (COR). 1991, c. 314, §§21-25 (AMD). 1991, c. 716, §6 (AMD). 1993, c. 682, §1 (AMD). 1995, c. 111, §1 (AMD). 1995, c. 502, §§F18-20 (AMD). 1999, c. 401, §J4 (AMD). 1999, c. 459, §1 (AMD). 1999, c. 583, §§3,4 (AMD). 1999, c. 731, §G2 (AMD). 2001, c. 386, §11 (AMD). 2001, c. 439, §§G2,6 (AMD). 2003, c. 545, §6 (REV). 2011, c. 340, §§1, 2 (AMD). 2011, c. 380, Pt. AA, §1 (AMD). 2011, c. 491, §16 (AMD). 2011, c. 515, §3 (AMD). 2013, c. 368, Pt. ZZZ, §1 (AMD). 2013, c. 491, §§3, 4 (AMD).

## **§1404. DUTIES AND POWERS OF THE COMMISSIONER IN SUPPORT OF STATE BOARD OF CORRECTIONS**

In addition to other duties and powers set out in this Title, the commissioner has the following duties and powers to support the State Board of Corrections, referred to in this section as "the board," in its efforts to accomplish its purpose as described in section 1801. [2007, c. 653, Pt. A, §28 (NEW).]

**1. Managing facility capacity and inmate placement.** If the board fails to manage inmate bed space or inmate transfers as required under section 1803, subsection 2, paragraph D or if the board requests the commissioner to take on one or more of these functions and the commissioner agrees, the commissioner is responsible for the daily management of inmate bed space throughout the coordinated correctional system and shall direct the transfer of inmates between facilities in order to fulfill this responsibility consistent with the board's determination of facility use and purpose under section 1803, subsection 2, paragraph A. The commissioner shall develop a process for information sharing between the correctional facilities and the county jails, which must include at a minimum:

A. Daily reporting to the department by county jails of:

- (1) Facility population by gender; classification; legal status, including pretrial or sentenced; special needs; and any other parameters determined by the commissioner; and
- (2) Facility capacity and available bed space or bed space needs by the reportable parameters under subparagraph (1); and [2007, c. 653, Pt. A, §28 (NEW).]

B. Regular consultation with sheriffs. [2007, c. 653, Pt. A, §28 (NEW).]

[ 2013, c. 598, §7 (AMD) .]

**2. Coordinated correctional system plan.** The commissioner may recommend a downsizing plan and a reinvestment strategy to the board.

[ 2011, c. 374, §6 (AMD) .]

**3. Uniform policies and procedures.** The commissioner may recommend uniform practices for pretrial, revocation and reentry services to the board.

[ 2007, c. 653, Pt. A, §28 (NEW) .]

**4. Inspections and investigation.** The commissioner shall inspect county facilities consistent with sections 1208 and 1208-A.

[ 2007, c. 653, Pt. A, §28 (NEW) .]

**5. Inmates with mental illness.** The commissioner shall determine the placement, housing and program development for inmates with mental illness within correctional facilities and county jails in accordance with standards adopted by the board.

[ 2007, c. 653, Pt. A, §28 (NEW) .]

**6. Support of the board.** The commissioner shall provide administrative staffing for the board and expertise as requested by the board and shall serve as the fiscal agent for the board.

[ 2007, c. 653, Pt. A, §28 (NEW) .]

**7. Budget review.** The commissioner shall provide the board with its adult correctional and adult probation services biennial and supplemental budget proposals in a timely fashion.

[ 2009, c. 391, §9 (NEW) .]

#### SECTION HISTORY

2007, c. 653, Pt. A, §28 (NEW). 2009, c. 391, §9 (AMD). 2011, c. 374, §6 (AMD). 2013, c. 598, §7 (AMD).

## §1405. TRANSFER FROM COUNTY JAILS OR CORRECTIONAL FACILITIES

**1. Transfer.** The commissioner may transfer any adult inmate, whether detained pending a trial or other court proceeding or sentenced, from one county jail to another or between a county jail and a correctional facility.

[ 2009, c. 142, §15 (AMD) .]

**2. Transferee subject to rules.** A sentenced person transferred under this section is subject to the general rules of the facility to which the person is transferred, except that:

A. The term of the original sentence remains the same unless altered by the court; [2007, c. 653, Pt. A, §29 (NEW).]

B. The person becomes eligible for good time or deductions as provided in Title 17-A, section 1253 for a person sentenced to imprisonment in a county jail or to a correctional facility, whichever is applicable; [2007, c. 653, Pt. A, §29 (NEW).]

C. The person becomes eligible for release and discharge as provided in Title 17-A, section 1254 for a person sentenced to imprisonment in a county jail or to a correctional facility, whichever is applicable; [2007, c. 653, Pt. A, §29 (NEW).]

D. The person is entitled to have the time served in the facility under this section deducted from the sentence; and [2007, c. 653, Pt. A, §29 (NEW).]

E. The person becomes eligible for furloughs, work or other release programs, participation in public works and charitable projects, home-release monitoring and community confinement monitoring programs as authorized by Title 30-A, sections 1556, 1605, 1606 and 1659-A and Title 30-A, former section 1659 for a person sentenced to imprisonment in a county jail or work or other release programs, furloughs and supervised community confinement for a person sentenced to a correctional facility as authorized by sections 3033, 3035 and 3036-A, whichever is applicable, and may apply pursuant to the rules governing the sending facility. [2009, c. 391, §10 (AMD).]

[ 2009, c. 391, §10 (AMD) .]

**3. Return of inmate.** The commissioner may return an inmate transferred pursuant to this section back to the sending facility.

[ 2007, c. 653, Pt. A, §29 (NEW) .]

#### SECTION HISTORY

2007, c. 653, Pt. A, §29 (NEW). 2009, c. 142, §15 (AMD). 2009, c. 391, §10 (AMD).

## Subchapter 4: NEGOTIATIONS WITH MUNICIPALITIES IN WHICH CORRECTIONAL FACILITIES ARE LOCATED ENACTED BY PL 1989, C. 591, §1

## §1601. NEGOTIATIONS WITH MUNICIPALITIES

The Commissioner of Corrections, or the commissioner's designee, shall negotiate with officials of the municipality in which correctional facilities for both juveniles and adults constructed after the effective date of this section are located to provide state reimbursement to that municipality for the net increased costs that a new correctional facility imposes on that municipality. Negotiations shall commence only upon request of municipal officials and only within 6 months after the net increased costs arise. As used in this section, unless the context otherwise indicates, the following terms have the following meanings. [1989, c. 591, §1 (NEW).]

**1. Correctional facility.** "Correctional facility" means those facilities outlined in section 1001, subsection 6.

[ 1989, c. 591, §1 (NEW) . ]

**2. Net increased costs.** "Net increased costs" means the costs of those services rendered to the facility by the municipality and the costs of any adverse impact proximately caused by the operation of the facility, subtracted from the fair market value of those services rendered by the facility to the municipality.

[ 1989, c. 591, §1 (NEW) . ]

### SECTION HISTORY

1989, c. 591, §1 (NEW).

## Subchapter 5: STATE BOARD OF CORRECTIONS

## §1801. STATE BOARD OF CORRECTIONS

The State Board of Corrections, referred to in this subchapter as "the board," is established by Title 5, section 12004-G, subsection 6-C. The State Board of Corrections is an autonomous body. [2009, c. 213, Pt. GGG, §2 (AMD); 2009, c. 213, Pt. GGG, §7 (AFF).]

**1. Purpose of the board.** The purpose of the board is to:

A. Promote public safety; [2013, c. 598, §8 (NEW).]

B. Establish a unified, efficient jail system that encourages collaboration among the counties, the department and the judicial branch; and [2013, c. 598, §8 (NEW).]

C. Develop and implement a coordinated correctional system that demonstrates sound fiscal management, achieves efficiencies, reduces recidivism and ensures the safety and security of correctional staff, inmates, visitors, volunteers and surrounding communities. [2013, c. 598, §8 (NEW).]

[ 2013, c. 598, §8 (RPR) . ]

**2. State goals.** The board shall develop goals to guide the development of and evaluate the effectiveness of a coordinated correctional system. The board shall present its goals for review and approval by the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters. The goals must include benchmarks for performance in the following areas:

A. Recidivism reduction; [2007, c. 653, Pt. A, §30 (NEW).]

B. Pretrial diversion; [2013, c. 598, §9 (AMD).]

C. Rate of incarceration; [2013, c. 598, §9 (AMD).]

D. Standardization of practices, equipment, professionalism of personnel, programs and policies statewide among the counties; [2013, c. 598, §10 (NEW).]

E. Efficiencies and economies of scale through consolidated purchases of goods and services; [2013, c. 598, §10 (NEW).]

F. Establishment of regional authorities to promote the goals pursuant to this subsection; [2013, c. 598, §10 (NEW).]

G. Establishment of common accounting practices, codifications and reporting formats and standardized performance metrics; [2013, c. 598, §10 (NEW).]

H. Establishment of a common, prioritized long-term capital improvement budget; [2013, c. 598, §10 (NEW).]

I. Addressing mental health and substance abuse problems among inmates; [2013, c. 598, §10 (NEW).]

J. Efforts made toward equality in the burden of criminal justice-related costs of the coordinated correctional system on taxpayers statewide; and [2013, c. 598, §10 (NEW).]

K. Examination and implementation of best practices used at the national level. [2013, c. 598, §10 (NEW).]

[2013, c. 598, §§9, 10 (AMD).]

#### SECTION HISTORY

2007, c. 653, Pt. A, §30 (NEW). 2009, c. 213, Pt. GGG, §2 (AMD). 2009, c. 213, Pt. GGG, §7 (AFF). 2011, c. 374, §§7, 8 (AMD). 2013, c. 598, §§8-10 (AMD).

## §1802. BOARD MEMBERSHIP

**1. Appointments.** The board consists of 5 members who are appointed by the Governor. Each appointment is subject to review by the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters and to confirmation by the Senate, except those members appointed pursuant to paragraph C. The following provisions govern member qualifications:

A. One member must be a sheriff nominated by a statewide organization representing sheriffs; [2013, c. 598, §11 (AMD).]

B. One member must be a county commissioner nominated by a statewide organization representing county commissioners; [2013, c. 598, §11 (AMD).]

C. Two members must be representatives of the executive branch and at least one of the 2 must be from the department; and [2013, c. 598, §11 (AMD).]

D. [2013, c. 598, §11 (RP).]

E. One member must be broadly representative of the public. The member appointed under this paragraph may not be an elected state or county official or municipal officer and may not derive income in substantial portion from work as an employee of a state, county or municipal government or in the field of corrections. [2013, c. 598, §11 (AMD).]

[2013, c. 598, §11 (AMD).]

**2. Terms.** Members of the board serve at the pleasure of the Governor and must be appointed for 3-year terms. A member may continue to serve until that member's replacement is appointed and confirmed. A vacancy must be filled for the remainder of the unexpired term. Members may be reappointed.

[2007, c. 653, Pt. A, §30 (NEW).]



**3. Chair.** The board shall select a chair from among its membership. A chair may serve as chair for more than one term.

[ 2007, c. 653, Pt. A, §30 (NEW) . ]

**4. Compensation.** Members of the board are entitled to compensation according to the provisions of Title 5, section 12004-G, subsection 6-C.

[ 2007, c. 653, Pt. A, §30 (NEW) . ]

**5. Assistance.** The department shall provide administrative support for the operations of the board, including but not limited to filing public notices, taking meeting minutes and recording decisions.

[ 2007, c. 653, Pt. A, §30 (NEW) . ]

**6. Board meetings.** The board shall meet at least 4 times per year and as often as necessary at the discretion of the chair. Any 3 members of the board may call a meeting.

[ 2007, c. 653, Pt. A, §30 (NEW) . ]

**7. Quorum.** Two-thirds of the members of the board constitute a quorum for purposes of voting, 2/3 of the members constitute a quorum for purposes of rulemaking and 3 members constitute a quorum for subcommittee hearings held by the board that do not involve decision making.

[ 2007, c. 653, Pt. A, §30 (NEW) . ]

**8. Records and meetings.** All meetings and records of the board are subject to the provisions of Title 1, chapter 13.

[ 2007, c. 653, Pt. A, §30 (NEW) . ]

#### SECTION HISTORY

2007, c. 653, Pt. A, §30 (NEW). 2009, c. 89, §1 (AMD). 2011, c. 374, §§9, 10 (AMD). 2013, c. 598, §11 (AMD).

### §1803. BOARD RESPONSIBILITIES AND DUTIES

In addition to other duties and powers set out in this Title, the board is charged with the following responsibilities and duties. [2011, c. 374, §11 (AMD).]

**1. Manage the cost of corrections.** The board shall develop a plan to achieve systemic cost savings and cost avoidance throughout the coordinated correctional system with the goal of operating efficient correctional services. Additionally, the board shall:

A. Review, amend if necessary and adopt the correctional services expenditures in each county budget under Title 30-A, section 710; [2011, c. 374, §12 (AMD).]

B. Develop reinvestment strategies within the coordinated correctional system to improve services and reduce recidivism; [2011, c. 374, §12 (AMD).]

C. Establish boarding rates for the coordinated correctional system, except boarding rates for federal inmates; [2011, c. 374, §12 (AMD).]

D. Review department biennial and supplemental budget proposals affecting adult correctional and adult probation services and submit recommendations regarding these budget proposals to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters and the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs; [2011, c. 374, §12 (AMD).]

E. Develop parameters for facility population, including but not limited to gender; classification; legal status, including pretrial or sentenced; and special needs; and [2011, c. 374, §12 (NEW).]

F. Enter into contracts on behalf of county jails or regional jails for any goods or services when such contracts will:

- (1) Lower the cost of providing correctional services;
- (2) Improve delivery of correctional services; or
- (3) Otherwise help to achieve the goals of the board pursuant to section 1801.

If the board enters into a contract on behalf of a county, that county is responsible for meeting the terms of the contract and the pro rata share of the costs for the goods and services under the contract. A county subject to a contract under this paragraph may not contract for any goods or services that are the subject of the contract without the prior written approval of the board. Except for goods and services contracted by the board, a county or regional jail may enter into an agreement with another county or regional jail to procure goods and services without the written permission of the board. [2013, c. 598, §12 (AMD).]

[ 2013, c. 598, §12 (AMD) .]

**1-A. Adopt a budget growth factor; personnel costs.** The board shall establish a budget growth factor for each fiscal year as determined pursuant to Title 30-A, section 710, subsection 1-A. The board shall approve a county budget that does not exceed the budget growth factor calculated on the total county budget that includes the state-funded portion of the county budget. A county may exceed the budget growth factor as applied to personnel costs but may not exceed the budget growth factor established for a county's overall budget.

[ 2013, c. 598, §13 (NEW) .]

**2. Determine correctional facility use and purpose.** The board shall:

A. Determine individual correctional facility and county jail use, including the location of specialty units, which may include medical, mental health, women's and substance abuse units, other specialty units and housing of pretrial and sentenced populations; [2007, c. 653, Pt. A, §30 (NEW).]

B. Review and approve staffing levels at each correctional facility and county jail to ensure that safe conditions exist for staff, inmates and others; [2013, c. 598, §14 (AMD).]

C. Review the use of all correctional facilities and county jails. The board may downsize or close facilities or reassign services. The board shall adopt rules governing the process and standards for closing or downsizing a correctional facility or a county jail, including criteria to be evaluated and stakeholders to be consulted. Rules adopted pursuant to this paragraph are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A; [2013, c. 598, §14 (AMD).]

D. Manage inmate bed space throughout the coordinated correctional system and direct the transfer of inmates between county jails; and [2013, c. 598, §15 (NEW).]

E. Receive and review all reports and results of county jail inspections conducted by the department pursuant to section 1208, subsection 2. [2013, c. 598, §15 (NEW).]

[ 2013, c. 598, §§14, 15 (AMD) .]

**3. Adopt treatment standards and policies.** The board shall:

A. Adopt standards for consistent systemwide pretrial, revocation and reentry practices; [2007, c. 653, Pt. A, §30 (NEW).]

B. Adopt standards for the treatment of inmates with mental illness within correctional facilities and county jails, and in consultation with the State Forensic Service, adopt policies for facilitating the performance of court-ordered mental health evaluations within correctional facilities and county jails when appropriate; and [2007, c. 653, Pt. A, §30 (NEW).]

C. Coordinate transportation of inmates in the coordinated correctional system. [2011, c. 374, §13 (AMD).]

[2011, c. 374, §13 (AMD).]

**3-A. Adopt and enforce standards of efficiency.** The board shall adopt and enforce standards to improve the efficiency of the county correctional system relating to:

A. Management information systems and infrastructure; [2013, c. 598, §16 (NEW).]

B. Security equipment; [2013, c. 598, §16 (NEW).]

C. Inmate classification; [2013, c. 598, §16 (NEW).]

D. Pretrial services; [2013, c. 598, §16 (NEW).]

E. Staffing qualifications and staffing levels; and [2013, c. 598, §16 (NEW).]

F. Other matters relating to construction, maintenance and operations. [2013, c. 598, §16 (NEW).]

[2013, c. 598, §16 (NEW).]

**4. Certificate of need.** The board shall review and may approve any future public or private construction projects. The board shall establish a certificate of need process used for the review and approval of any future public or private capital correctional construction projects. A public or private correctional construction project may not be undertaken unless the board issues a certificate of need in support of that project. The board shall adopt rules governing the procedures relating to the certificate of need process and financing alternatives. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

[2009, c. 391, §14 (AMD).]

**5. Administrative duties.** The board shall:

A. Identify opportunities for and approve cost-saving agreements and efficiencies, including, but not limited to, purchasing or contract agreements, shared staff and staff training, transportation and technology initiatives. Any opportunities identified by the board must be included and discussed in the board's reports to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters as required under subsection 10; [2007, c. 653, Pt. A, §30 (NEW).]

B. [2013, c. 533, §25 (RP).]

C. Assist correctional facilities and county jails when appropriate to establish, achieve and maintain professional correctional accreditation standards; [2007, c. 653, Pt. A, §30 (NEW).]

D. Administer the County Jail Prisoner Support and Community Corrections Fund established in section 1806 and the State Board of Corrections Operational Support Fund program established in section 1805. The board may allocate available funds from the State Board of Corrections Operational Support Fund program to meet any emergency expenses or for maintenance in emergency conditions of any correctional facility or county jail. The board may make allocations for these purposes only upon written request of the commissioner or a county; [2013, c. 598, §17 (AMD).]

E. Prepare and submit to the Governor a budget for the State Board of Corrections Operational Support Fund program established in section 1805 biennially that clearly identifies the financial contribution required by the State to support the recommended costs of corrections as established in subsection 1-A in addition to the capped property tax contribution under Title 30-A, section 701, subsection 2-A. The board shall also propose in its budget an appropriation to the State Board of Corrections Operational Support Fund program of an amount equal to 10% of the amount of projected statewide long-term capital improvement plan needs as approved by the board for the succeeding 10 years; [ 2013, c. 598, §18 (AMD) . ]

F. Promote and support the use of evidence-based practices; and [ 2013, c. 598, §19 (AMD) . ]

G. Consult with mental health and drug abuse experts to assist the board with issues related to mental health and drug abuse. [ 2013, c. 598, §20 (NEW) . ]

[ 2013, c. 533, §25 (AMD); 2013, c. 598, §§17-20 (AMD) . ]

**6. Receive and review recommendations.** The board shall receive and review recommendations submitted by the commissioner, the counties, the corrections working group established in section 1804 or other interested parties concerning development of downsizing plans and reinvestment strategies, uniform practices for pretrial, inmate classification, revocation and reentry services, and other recommendations with respect to the delivery of state and county corrections services. The board shall consult with and seek input from prosecutors; defense attorneys; judges; advocates for victims; providers and advocates who work with persons with mental illness; and other interested parties.

[ 2007, c. 653, Pt. A, §30 (NEW) . ]

**7. Authority limited.** The board does not have authority to exercise jurisdiction over inmate grievances, labor negotiations or contracts, including personnel rules negotiated as part of any collective bargaining agreement, or the administration of juvenile community corrections services. Nothing in this subchapter authorizes the board to interfere in obligations counties have in collective bargaining obligations under Title 26, section 965.

[ 2013, c. 598, §21 (AMD) . ]

**8. Rulemaking.** The board may adopt rules necessary to implement this subchapter. Unless otherwise indicated, rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[ 2013, c. 598, §22 (AMD) . ]

**9. Appeals.** Only the department or a county aggrieved by a final decision of the board is entitled to judicial review pursuant to Title 5, section 11001. Such review must be limited to errors of law.

[ 2007, c. 653, Pt. A, §30 (NEW) . ]

**10. Reporting.** The board shall make initial reports to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters by January 15, 2009 and by April 1, 2009. Thereafter, the board shall report at least annually, beginning January 15, 2010, and as requested. Reports must include any recommendations for amending laws relating to the coordinated correctional system or the board.

[ 2011, c. 374, §14 (AMD) . ]

**11. Committee review.** The joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters shall conduct an initial review by April 1, 2009 and annually by January 15th thereafter to analyze the effectiveness of the board in fulfilling its purposes, including but not

limited to a review of the board's identification of opportunities for and agreements regarding cost savings and efficiencies in purchasing, training, transportation and technology. The committee has authority to report out legislation upon completing its review each year.

[ 2007, c. 653, Pt. A, §30 (NEW) .]

#### SECTION HISTORY

2007, c. 653, Pt. A, §30 (NEW). 2009, c. 213, Pt. GGG, §§3, 4 (AMD). 2009, c. 213, Pt. GGG, §7 (AFF). 2009, c. 391, §§11-14 (AMD). 2011, c. 374, §§11-14 (AMD). 2013, c. 533, §25 (AMD). 2013, c. 598, §§12-22 (AMD).

## §1803-A. OFFICE OF EXECUTIVE DIRECTOR

**1. Appointment.** The Commissioner of Corrections, with the advice and the consent of the board, and on a timetable directed by the board, shall hire an executive director who serves at the pleasure of the board.

[ 2011, c. 374, §15 (NEW) .]

**2. Qualifications.** To qualify for appointment as executive director, a person must have training and experience commensurate with the duties and powers assigned to the position as determined by the board.

[ 2011, c. 374, §15 (NEW) .]

**3. Duties and powers of executive director.** The Executive Director of the State Board of Corrections shall perform administrative duties and exercise the powers consistent with policies established by the board, including:

A. Reviewing and making recommendations concerning proposed county corrections budgets; [ 2013, c. 598, §23 (NEW) .]

B. Preparing the board budget; [ 2013, c. 598, §23 (NEW) .]

C. Coordinating and compiling the long-term capital improvement plans submitted by the counties into a single budget document; [ 2013, c. 598, §23 (NEW) .]

D. Preparing proposed goals, objectives for performance metrics and reports concerning the county correctional facilities; and [ 2013, c. 598, §23 (NEW) .]

E. Developing recommendations with respect to contracts, services, standards and other matters within the jurisdiction of the board as the board may direct. [ 2013, c. 598, §23 (NEW) .]

The executive director may appoint a financial analyst to assist with the work of the board. The executive director may request the assistance of the board, the Office of the Attorney General and other agencies of the State or the counties whenever necessary. The executive director and the commissioner shall enter into a written memorandum of understanding regarding the relationship of the board and its staff to the department.

[ 2013, c. 598, §23 (AMD) .]

**4. Compensation.** The board shall set the compensation for the executive director and the financial analyst appointed under subsection 3.

[ 2013, c. 598, §24 (NEW) .]

#### SECTION HISTORY

2011, c. 374, §15 (NEW). 2013, c. 598, §§23, 24 (AMD).

## §1804. CORRECTIONS WORKING GROUP

The commissioner, the president of a statewide county commissioners association and the president of a statewide sheriffs association shall develop a memorandum of understanding for approval by the board that establishes an informal corrections working group consisting of representatives of the department, sheriffs and county commissioners. The commissioner, the president of a statewide county commissioners association and the president of a statewide sheriffs association shall name 2 cochairs to convene and lead the working group. One chair must represent the department and one chair must represent county government. The cochairs shall select the remaining members of the working group based on criteria established by the parties in the memorandum of understanding. [2007, c. 653, Pt. A, §30 (NEW).]

The corrections working group shall meet as needed and as requested by either one or both cochairs to engage in information sharing and to discuss and resolve any issues or problems experienced in daily operation of the coordinated correctional system, including the placement of inmates. The group shall advise and assist the board in the ongoing improvement of the coordinated correctional system. In carrying out this function, the working group may consult with experts and stakeholders, including but not limited to prosecutors, defense attorneys, judges, victim advocates, providers and advocates for persons with mental illness and other interested parties. If an issue arises that cannot be responded to by the working group, the board shall meet to review the issue. The working group shall report to the board. [2011, c. 374, §16 (AMD).]

### SECTION HISTORY

2007, c. 653, Pt. A, §30 (NEW). 2011, c. 374, §16 (AMD).

## §1805. STATE BOARD OF CORRECTIONS OPERATIONAL SUPPORT FUND PROGRAM

**1. Program established.** The State Board of Corrections Operational Support Fund program, referred to in this section as "the program," includes General Fund accounts and Other Special Revenue Funds accounts for the purposes specified in this section.

[ 2013, c. 598, §25 (AMD) .]

**2. Expenditures of program.** Upon approval by the board, program funds may be used for personnel, goods and services, including, but not limited to, motor vehicles, information technologies and office equipment, that do not exceed \$50,000 per item.

[ 2013, c. 598, §25 (AMD) .]

**3. Sources of funding.** The State Controller shall credit to the Other Special Revenue Funds accounts of the program:

A. Any net county assessment revenue pursuant to Title 30-A, section 701, subsection 2-A in excess of county jail appropriations in counties where jails or correctional services have been closed or downsized; [2007, c. 653, Pt. A, §30 (NEW).]

B. Any net county assessment revenue in excess of county jail expenditures in counties where changes in jail operations pursuant to board directives under section 1803 have reduced jail expenses. Any net revenue in excess of county or regional jail expenditures resulting from efficiencies generated by the independent actions of a county or regional jail remains with the county's or regional jail authority's correctional services fund balance; [2009, c. 391, §15 (AMD).]

C. [2009, c. 213, Pt. GGG, §7 (AFF); 2009, c. 213, Pt. GGG, §5 (RP).]

D. Money from any other source, whether public or private, designated into or credited to the Other Special Revenue Funds accounts of the program; and [2009, c. 213, Pt. GGG, §5 (AMD); 2009, c. 213, Pt. GGG, §7 (AFF).]

E. Interest earned or other investment income on balances in the Other Special Revenue Funds accounts of the program. [2009, c. 213, Pt. GGG, §5 (AMD); 2009, c. 213, Pt. GGG, §7 (AFF).]

[ 2009, c. 213, Pt. GGG, §5 (AMD); 2009, c. 213, Pt. GGG, §7 (AFF); 2009, c. 391, §15 (AMD) .]

**4. Unencumbered balances.** Any unencumbered balance in General Fund accounts or Other Special Revenue Funds accounts remaining at the end of any fiscal year does not lapse but is carried forward to be expended for the purposes specified in this section and may not be made available for any other purpose.

[ 2009, c. 213, Pt. GGG, §5 (AMD); 2009, c. 213, Pt. GGG, §7 (AFF) .]

**5. Report by chair of the State Board of Corrections.** The chair of the board shall report at least annually on or before the 2nd Friday in December to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs and the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters. The report must summarize the activity in any funds or accounts directly related to this section.

[ 2009, c. 213, Pt. GGG, §5 (AMD); 2009, c. 213, Pt. GGG, §7 (AFF) .]

#### **6. Restricted accounts.**

*(Subsection 6 as enacted by PL 2013, c. 598, §25 is REALLOCATED TO TITLE 34-A, SECTION 1805, SUBSECTION 7)*

[ 2009, c. 213, Pt. GGG, §7 (AFF); 2009, c. 213, Pt. GGG, §5 (RP) .]

**7. (REALLOCATED FROM T. 34-A, §1805, sub-§6) County correctional budget savings.** In the first fiscal year in which any unencumbered balance in the corrections-related account of a county arises out of savings realized during the course of that fiscal year, that county may retain the unencumbered balance for future corrections-related purposes without offset of the state funds that would otherwise be due that county. A county shall submit to the board 10% of any unencumbered balance realized in a subsequent fiscal year and the remaining unencumbered balance must be used by the county as provided in this subsection.

[ 2013, c. 2, §41 (RAL) .]

#### **SECTION HISTORY**

2007, c. 653, Pt. A, §30 (NEW). 2009, c. 213, Pt. GGG, §5 (AMD). 2009, c. 213, Pt. GGG, §7 (AFF). 2009, c. 391, §15 (AMD). RR 2013, c. 2, §41 (COR). 2013, c. 598, §25 (AMD).

## **§1806. COMMUNITY CORRECTIONS FUNDS DISTRIBUTED BY BOARD**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Community corrections" means correctional services for adults delivered in the least restrictive manner that ensures the public safety by the county or for the county under contract with a public or private entity. "Community corrections" includes, but is not limited to, preventive or diversionary correctional programs, pretrial release or conditional release programs, alternative sentencing or housing programs, electronic monitoring, residential treatment and halfway house programs, community correctional centers and temporary release programs from a facility for the detention or confinement of persons convicted of crimes. [2007, c. 653, Pt. A, §30 (NEW).]

[ 2007, c. 653, Pt. A, §30 (NEW) .]

**2. Establishment of County Jail Prisoner Support and Community Corrections Fund.** The County Jail Prisoner Support and Community Corrections Fund is established for the purpose of providing state funding for a portion of the counties' costs of the support of prisoners detained in or sentenced to county jails and for establishing and maintaining community corrections.

[ 2007, c. 653, Pt. A, §30 (NEW) .]

**3. Distribution.** Beginning July 1, 2009 and annually thereafter, the board shall distribute the County Jail Prisoner Support and Community Corrections Fund to counties based on the percent distribution of actual funds reimbursed to counties pursuant to former section 1210 in fiscal year 1996-97. The percent distribution per county is as follows:

- A. Androscoggin: 8.5%; [2007, c. 653, Pt. A, §30 (NEW) .]
- B. Aroostook: 6.6%; [2007, c. 653, Pt. A, §30 (NEW) .]
- C. Cumberland: 17.6%; [2007, c. 653, Pt. A, §30 (NEW) .]
- D. Franklin: 2.4%; [2007, c. 653, Pt. A, §30 (NEW) .]
- E. Hancock: 3.3%; [2007, c. 653, Pt. A, §30 (NEW) .]
- F. Kennebec: 6.9%; [2007, c. 653, Pt. A, §30 (NEW) .]
- G. Knox: 6.4%; [2007, c. 653, Pt. A, §30 (NEW) .]
- H. Lincoln: 3.7%; [2007, c. 653, Pt. A, §30 (NEW) .]
- I. Oxford: 4.7%; [2007, c. 653, Pt. A, §30 (NEW) .]
- J. Penobscot: 13.7%; [2007, c. 653, Pt. A, §30 (NEW) .]
- K. Piscataquis: 1.3%; [2007, c. 653, Pt. A, §30 (NEW) .]
- L. Sagadahoc: 2.7%; [2007, c. 653, Pt. A, §30 (NEW) .]
- M. Somerset: 5.5%; [2007, c. 653, Pt. A, §30 (NEW) .]
- N. Waldo: 3.7%; [2007, c. 653, Pt. A, §30 (NEW) .]
- O. Washington: 1.8%; and [2007, c. 653, Pt. A, §30 (NEW) .]
- P. York: 11.2%. [2007, c. 653, Pt. A, §30 (NEW) .]

[ 2007, c. 653, Pt. A, §30 (NEW) .]

**4. Authority to deviate from percent distribution.** Notwithstanding subsection 3, the board may alter the percent distribution to a county based on a substantial change in the nature or extent of correctional services provided by that county.

[ 2007, c. 653, Pt. A, §30 (NEW) .]

**5. Change in state funding of county jails.** If a county experiences at least a 10% increase in the total annual jail operating budget or if a county issues a bond for the construction of a new jail or renovation of an existing jail, the county may file with the board a request for an increase in the amount of state funds the county receives for the support of prisoners. A county must file a request for an increase in the amount of state funds the county receives for the support of prisoners by February 15th for an increase experienced in the prior fiscal year. The board shall review the request and, if the county demonstrates to the board a need for the increase, the board shall distribute the approved amount to the county from the surcharges collected under subsection 7. All funds distributed under this subsection must be used only for the purpose of funding counties' costs of the support of prisoners detained in or sentenced to county jails and for establishing and



maintaining community corrections. The board shall forward the request and supporting documents to the joint standing committee of the Legislature having jurisdiction over corrections and criminal justice matters of a county's requested increase and any distributions made to counties under this subsection.

[ 2007, c. 653, Pt. A, §30 (NEW) .]

**6. Community corrections program account.** Each county treasurer shall place 20% of the funds received from the board pursuant to this section into a separate community corrections program account. A county may use funds placed in this account only for community corrections. Before distributing to a county that county's entire distribution from the County Jail Prisoner Support and Community Corrections Fund, the board shall require that county to submit appropriate documentation verifying that the county expended 20% of its prior distribution for the purpose of community corrections. If a county fails to submit appropriate documentation verifying that the county expended 20% of its prior distribution for the purpose of community corrections, the board shall distribute to that county only 80% of its distribution from the County Jail Prisoner Support and Community Corrections Fund. The board shall distribute the 20% not distributed to that county to all other counties that submit appropriate documentation verifying compliance with the 20% expenditure requirement for the purpose of community corrections. The board shall distribute these funds to those qualifying counties in an amount equal to each county's percent distribution pursuant to subsection 3.

[ 2007, c. 653, Pt. A, §30 (NEW) .]

**7. Surcharge imposed.** In addition to the 14% surcharge collected pursuant to Title 4, section 1057, an additional 1% surcharge must be added to every fine, forfeiture or penalty imposed by any court in this State, which for the purposes of collection and collection procedures is considered a part of the fine, forfeiture or penalty. All funds collected pursuant to this subsection are nonlapsing and must be deposited monthly in the State Board of Corrections Operational Support Fund program that is administered by the board. All funds collected pursuant to this subsection must be distributed to counties that have experienced at least a 10% increase in their total annual jail operating budget or to counties that have issued bonds for the construction of a new jail or renovation of an existing jail and that meet all other requirements under subsection 5. Funds distributed to counties pursuant to this subsection must be used for the sole purpose of funding costs of the support of prisoners detained or sentenced to county jails and for establishing and maintaining community corrections.

[ 2013, c. 598, §26 (AMD) .]

**8. Effective date.** This section takes effect July 1, 2009.

[ 2007, c. 653, Pt. A, §30 (NEW) .]

#### SECTION HISTORY

2007, c. 653, Pt. A, §30 (NEW). 2009, c. 213, Pt. GGG, §6 (AMD). 2009, c. 213, Pt. GGG, §7 (AFF). 2013, c. 598, §26 (AMD).

## §1807. ELECTRONIC MONITORING FUND

The Electronic Monitoring Fund, referred to in this section as "the fund," is established within the board and is a nonlapsing fund to be used by the board for the purpose of funding the use of electronic monitoring pursuant to Title 15, section 1026, subsection 3, paragraph A, subparagraph (19) and Title 17-A, section 1204, subsection 2-A, paragraph N. The board may accept and deposit into the fund any monetary gifts, donations or other contributions from public or private sources, and funds in the fund must be used for the purposes specified in this section. [2013, c. 227, §6 (NEW) .]

#### SECTION HISTORY

2013, c. 227, §6 (NEW).

## §1808. FINANCIAL DATA

**1. Develop a plan.** The board shall develop a plan, policies and procedures regarding the collection, analysis and interpretation of financial data.

[ 2013, c. 598, §27 (NEW) .]

**2. Develop a guidance document for counties.** The board shall develop a guidance document for the counties regarding:

- A. Coding expenses; [ 2013, c. 598, §27 (NEW) .]
- B. Submission of emergency requests; [ 2013, c. 598, §27 (NEW) .]
- C. Submission of budgets; [ 2013, c. 598, §27 (NEW) .]
- D. Implementing the board's fiscal policies; [ 2013, c. 598, §27 (NEW) .]
- E. Developing methods and costs that can be used to compare costs within the county corrections system and averaged system-wide for the county jail facilities; and [ 2013, c. 598, §27 (NEW) .]
- F. Any other policies and procedures that the board considers important to facilitating the counties' ability to comply with the board's needs. [ 2013, c. 598, §27 (NEW) .]

[ 2013, c. 598, §27 (NEW) .]

**3. Develop a fund balance policy.** The board shall develop a fund balance policy consistent with the provisions of Title 30-A, section 924, subsection 2 to allow counties to reserve cash for their corrections needs as long as the needs reflect the policies and priorities of the board. The policy must include incentives for counties to save money. The board shall regularly assess fund balances, and any transfers of fund balances must be approved by the board.

[ 2013, c. 598, §27 (NEW) .]

**4. Board contracts with the counties.** The board may develop and execute contracts between the board and the counties. The contracts may provide for the use of state funds, board and county responsibilities and any other provisions the board determines necessary.

[ 2013, c. 598, §27 (NEW) .]

### SECTION HISTORY

2013, c. 598, §27 (NEW) .

## §1809. APPLICATION FOR OTHER FUNDS

The board may accept funds and apply for grants and other funds to implement statewide or multicounty corrections initiatives, including, but not limited to, programming, technology, innovation and other initiatives to create a statewide county jail system. [ 2013, c. 598, §27 (NEW) .]

### SECTION HISTORY

2013, c. 598, §27 (NEW) .

## §1810. BUDGET FORMAT

**1. Creation of the county budget.** The board shall develop and implement a budget format for county jails and a budget process that follows the same format and process that the State Budget Officer uses for the General Fund budget and for the department.

[ 2013, c. 598, §27 (NEW) .]

**2. Baseline budget and budget initiatives.** The board shall create a baseline budget for funding the county jails and new funding initiatives that define the need for funding decreases or increases. The board shall transmit budget instructions from the Department of Administrative and Financial Services to the county commissioners, who shall submit the budgets for their respective counties to the board. The budget instructions must include a budget growth factor consistent with the provisions of Title 30-A, section 710, subsection 1-A that the Department of Administrative and Financial Services has approved.

[ 2013, c. 598, §27 (NEW) .]

**3. Single chart of accounts.** The board shall establish a single chart of accounts for county corrections-related expenditures consistent with state General Fund standards and practices. All county jail budgets must be based and submitted on a state fiscal year basis.

[ 2013, c. 598, §27 (NEW) .]

**4. Standardized format and data.** The board shall adopt rules with respect to the standardized format and data to be used in county jail budgets and record keeping. The board shall ensure consistency in all county jail budgets to facilitate comparisons among county budgets and benchmarking.

[ 2013, c. 598, §27 (NEW) .]

**5. Funding allocation among county jails.** The board shall develop and approve a formula for allocating funding to the county jails. In determining the funding allocation formula, the board shall adopt rules that include, but are not limited to, rules regarding:

- A. Jail size; [2013, c. 598, §27 (NEW) .]
- B. The number of beds; [2013, c. 598, §27 (NEW) .]
- C. The age of a facility; [2013, c. 598, §27 (NEW) .]
- D. Historic costs; [2013, c. 598, §27 (NEW) .]
- E. Management information system upgrades; and [2013, c. 598, §27 (NEW) .]
- F. Any other criteria determined necessary by the board. [2013, c. 598, §27 (NEW) .]

[ 2013, c. 598, §27 (NEW) .]

### SECTION HISTORY

2013, c. 598, §27 (NEW) .

## §1811. COUNTY CORRECTIONS CAPITAL IMPROVEMENT FUND

**1. Fund established.** The County Corrections Capital Improvement Fund, referred to in this section as "the fund," is established.

[ 2013, c. 598, §27 (NEW) .]

**2. Capital investment plan; capital expenditure budget.** The board shall prepare a 10-year system-wide capital investment plan to be used to determine capital projects that can be funded for each county jail facility from the fund. The board shall report on the status of the capital investment plan to the Legislature by no later than January 15th of each first regular session of the Legislature. The board shall contract with an independent entity with expertise in developing a capital investment plan for correctional facilities to assist in developing the plan.

The board shall develop a capital expenditure budget for each county jail facility based on the capital investment plan to be submitted by each county with the operational budget for inclusion in the biennial budget or as required by the State Budget Officer.

[ 2013, c. 598, §27 (NEW) .]

**3. Budget growth factor.** The capital expenditure budget under subsection 2 must include a budget growth factor pursuant to Title 30-A, section 710, subsection 1-A that is approved by the Department of Administrative and Financial Services.

[ 2013, c. 598, §27 (NEW) .]

**4. Rules.** The board shall adopt rules governing the capital expenditure budget that take into consideration but are not limited to the following:

- A. The age of the county jail facility; [2013, c. 598, §27 (NEW) .]
- B. The condition of the county jail facility; [2013, c. 598, §27 (NEW) .]
- C. Inmate and employee safety; [2013, c. 598, §27 (NEW) .]
- D. The needs of the system-wide correctional system; [2013, c. 598, §27 (NEW) .]
- E. Improvements necessary for the county jail facility to be more efficient; and [2013, c. 598, §27 (NEW) .]
- F. Any other criteria the board determines necessary. [2013, c. 598, §27 (NEW) .]

[ 2013, c. 598, §27 (NEW) .]

**5. Verification of emergency capital requests.** In cases of emergency, if there are insufficient funds in the fund and in the retained funds of the affected county, the board may approve transfer of funds from the State Board of Corrections Operational Support Fund program. The board shall verify emergency capital requests based on criteria established by the board. The board shall:

- A. Develop a uniform request form; [2013, c. 598, §27 (NEW) .]
- B. Require backup information documenting the emergency; and [2013, c. 598, §27 (NEW) .]
- C. Require evidence that the county used the most efficient procurement process possible under the emergency circumstances. [2013, c. 598, §27 (NEW) .]

[ 2013, c. 598, §27 (NEW) .]

**6. Reports to the board.** Any payments made from the State Board of Corrections Operational Support Fund program that are not required to be approved by the board must be reported to the board in advance and included in financial reports on the State Board of Corrections Operational Support Fund program.

[ 2013, c. 598, §27 (NEW) .]

#### SECTION HISTORY

2013, c. 598, §27 (NEW) .

## §1812. USE OF FUNDS

**1. Restriction on use of funds.** Property tax revenues for the support of county jails pursuant to Title 30-A, section 701, subsection 2-A and the State Board of Corrections Operational Support Fund program may be used only for county jail operations.

[ 2013, c. 598, §27 (NEW) . ]

**2. Fund balances.** Fund balances remaining at the end of any fiscal year do not lapse but are carried forward for the benefit of the county jails that created the surplus.

[ 2013, c. 598, §27 (NEW) . ]

**3. Capital funds.** Capital funds appropriated or allocated through the Capital Investment Fund or from other sources may be used only for approved capital investment purposes as determined by the board.

[ 2013, c. 598, §27 (NEW) . ]

**4. Inmate boarding revenues.** Except as provided in this subsection, federal or state inmate boarding revenues are retained by the county jail facility generating the funds and are not offset against the state appropriation otherwise due that county under the approved allocation formula. Federal inmate boarding revenues are retained by the county up to budgeted amounts approved as part of the county correctional services budget procedure pursuant to Title 30-A, section 710 and the remaining federal revenues must be used as follows:

A. A county jail holding jail debt on or before July 1, 2008 shall transfer 25% of any remaining federal revenue to the County Corrections Capital Improvement Fund under section 1811 and apply 75% to the jail debt until the full discharge of that debt. [ 2013, c. 598, §27 (NEW) . ]

B. A county jail without any jail debt must transfer 75% of any remaining federal revenues to the County Corrections Capital Improvement Fund under section 1811. [ 2013, c. 598, §27 (NEW) . ]

[ 2013, c. 598, §27 (NEW) . ]

**5. Allocation of funds on quarterly basis.** The board shall distribute allotments of funds quarterly, together with a report of the financial status of each county jail facility. The board may curtail funds as necessary to address shortfalls. The board may request the State Budget Officer to transfer funds from one quarter to another to meet the needs of county jails.

[ 2013, c. 598, §27 (NEW) . ]

**6. Revenue and expenditure reports.** A county jail facility shall send a report of revenues generated and expenses incurred by the county jail to the board on a monthly basis and in the format prescribed by the board.

[ 2013, c. 598, §27 (NEW) . ]

### SECTION HISTORY

2013, c. 598, §27 (NEW) .

## §1813. MONITORING PERFORMANCE

The board may monitor the operational, programmatic and financial performance of each county jail facility and establish appropriate metrics and data collection requirements to compare the counties among themselves and with other appropriate jurisdictions. The board shall require timely reporting of the data collected in a consistent format. [ 2013, c. 598, §27 (NEW) . ]

### SECTION HISTORY

2013, c. 598, §27 (NEW) .

## §1814. ENFORCEMENT AUTHORITY

**1. Board actions.** A county jail that violates a provision of this subchapter may be subject to the following as determined by the board:

- A. Holding in escrow appropriations otherwise due to a county jail; [ 2013, c. 598, §27 (NEW) . ]
- B. Making a county jail facility ineligible for participation in programs; [ 2013, c. 598, §27 (NEW) . ]
- C. Suspending or denying funding; [ 2013, c. 598, §27 (NEW) . ]
- D. Requiring a county jail to transfer funds collected pursuant to Title 30-A, section 701, subsection 2-A to the State Controller to be credited to the State Board of Corrections Operational Support Fund program in an amount sufficient to cover any sums due to the board, the state or the other counties; and [ 2013, c. 598, §27 (NEW) . ]
- E. If the county jail facility is a habitual violator, restricting or modifying the operations of the county jail facility and making a request to the department to take over the management and control of the county jail facility and its staff and inmates. For purposes of this paragraph, "habitual violator" means a county jail facility with 3 or more violations of this subchapter. The board shall adopt rules to implement the provisions of this paragraph. Rules adopted pursuant to this paragraph are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A. [ 2013, c. 598, §27 (NEW) . ]

A county that violates this subchapter is responsible for all costs incurred by the State or other counties as a result of the violation, and the board may reallocate that county's appropriations during the time the county remains in violation of this subchapter.

[ 2013, c. 598, §27 (NEW) . ]

**2. Withdrawal from correctional system prohibited.** A sheriff or a county commissioner may not withdraw a county jail facility from the coordinated correctional system or refuse to house any out-of-county inmates except in cases of jail overcrowding as determined by the department. Any disagreement or dispute by a county with the board is subject to mediation proceedings developed pursuant to this subchapter. This subsection does not prohibit a party from petitioning a court for relief at any time.

[ 2013, c. 598, §27 (NEW) . ]

For purposes of this section, a violation of this subchapter includes a violation of a rule adopted by the board pursuant to this subchapter. [ 2013, c. 598, §27 (NEW) . ]

### SECTION HISTORY

2013, c. 598, §27 (NEW) .

## §1815. PROGRAM INCENTIVES

The board may provide funding to a county to support innovative or efficient programs for meeting needs of a county jail facility identified by the county or the board. [2013, c. 598, §27 (NEW).]

### SECTION HISTORY

2013, c. 598, §27 (NEW).

---

The State of Maine claims a copyright in its codified statutes. If you intend to republish this material, we require that you include the following disclaimer in your publication:

*All copyrights and other rights to statutory text are reserved by the State of Maine. The text included in this publication reflects changes made through the Second Regular Session of the 126th Maine Legislature and is current through August 1, 2014. The text is subject to change without notice. It is a version that has not been officially certified by the Secretary of State. Refer to the Maine Revised Statutes Annotated and supplements for certified text.*

The Office of the Revisor of Statutes also requests that you send us one copy of any statutory publication you may produce. Our goal is not to restrict publishing activity, but to keep track of who is publishing what, to identify any needless duplication and to preserve the State's copyright rights.

PLEASE NOTE: The Revisor's Office cannot perform research for or provide legal advice or interpretation of Maine law to the public. If you need legal assistance, please contact a qualified attorney.